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ON THE
FINANCIAL ADMINISTRATION
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TO 1817

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HISTORY OF THE FINANCIAL ADMINISTRATION OF IRELAND TO 1817

HISTORY

OF THE

FINANCIAL ADMINISTRATION OF IRELAND

TO 1817

BY

T. J. KIERNAN,

M.A., National University of Ireland, Ph.D., London, Fellow of the Royal Statistical Society.

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HISTORY

OF THE

FINANCIAL ADMINISTRATION

OF

IRELAND

CHAPTER I

Setting the Stage

It is not easy in any country to trace the development of political institutions ; in Ireland it is singularly difficult because of the unique tenure of statehood which that country has enjoyed, or, according to the point of view, from which it has suffered. In the course of a history which is written chiefly of rebellions and confiscations, whereby the country was " settled " over and over again, forever proving unsettled, the thread of parliamentary evolution would naturally be difficult to trace, and more difficult to explain by any set of principles. The complication is greater because in place of the customary contest between three estates there appear on the stage of Irish history two broad divisions of people, the Irish Catholics and the adventurers who were Protestants; and between the King of Ireland and his loyal subjects (the adventurers) there was interposed a body of Lords Justices who administered the affairs of the country as deputies for a deputy. It is simpler at once to eliminate the Irish population. Their share in the government of their country from 1600 to 1800 has no history. We treat then of the colonists and their immediate descendants and we call

their representatives, assembled in parliament, the Parliament of Ireland.[1]

Although modelled on the design of English parliaments, the Irish parliament has had a distinct evolution, peculiar to itself owing to the creation of this extra "estate" the lords justices; or, if they and the chief governor are regarded as a normal executive authority, owing then to the external control exercised by the Privy Council of England, and, after 1707, of Great Britain. It is not necessary, for the purpose of this study, to search the records of the earliest parliaments held in Ireland; to differentiate between parliaments and councils, and between parleys and parliaments. It is sufficient on this to recapitulate what the researches of other writers have authorised one to accept: that, prior to the reign of Henry VII, during the period of the Wars of the Roses in England, the English Pale in Ireland became smaller and smaller, and the Lord Deputy more and more independent of external authority; and that when Henry VII ascended the throne in 1485, he found his agents of government in Ireland but loosely attached to their proper loyalty, and his Irish subjects (a small minority of the inhabitants of Ireland) no better than their political masters.

In an Act of the Irish Parliament, 11 Eliz., c. 8, sess. 3, a reference is made to a condition of affairs stated to have existed in the period before Henry VII: "when Liberty was given to the Governors under Your Majesty's Progenitors to call Parliaments at their Pleasure, Acts passed as well to the Dishonour of the Prince, as to the Hinderance of their Subjects."

[1] "Take any list of our Nobility and House of Commons within these last forty Years, and there cannot be found over ten or a dozen Names, but what are of a British Original: And even those few that are otherwise, both by their frequent Alliances and Intermarriages with *British* Families, and by their Manners, Customs and Inclinations, seem to have lost every Thing that can be called *Irish*, except their Names and their Estates." The writer of *The Tribune* (1729), from the fourth number of which this quotation is taken, was endeavouring to allay fears that there was too great a spirit of independence in the Dublin Parliament, or that the Parliament would set itself up as a rival and shake off dependance on the Government of Great Britain. Writing of the Irish he said: "If any of them have a Coat that will hang together, it is a Holiday Garment."

In the reign of Henry VII legislation was passed in the Irish parliament which influenced the development of the parliamentary institution in Ireland in a most extraordinary manner over a course of three hundred years. In 1492 the Earl of Kildare was displaced from the position of Lord Deputy which he then held; and in his stead was appointed Sir Edward Poynings. A parliament was summoned and held at Drogheda in 1494, and as a result of its labours, twenty-three statutes were enacted. The fourth of these (10 Henry VII, chap. 4) relates to the procedure by which future parliaments were to be held in Ireland and future legislation to be effected. The wording of these ancient acts is not always strictly true to sense; yet it is probable that the opening phrase of the act: "At the Request of the Commons" is not inaccurate and that the parliament of Henry VII did desire to transfer to England some of the powers which had until then been exercised in Ireland. An act had been passed in the reign of Henry VI limiting the number of parliaments to be held within any year to one.[2] More frequent sittings were a grievance "intolerable in an age when the duty of attending on Parliament was shunned as a burden, not courted as an honour."[3] The act 10 Henry VII, c. 4 gave to the King and the English Privy Council the power to determine the dates when Irish parliaments should be called into being. Without their assent on good cause shown a parliament could not henceforth be summoned in Ireland.

10 Henry VII, Chapter 4.

An Act that no Parliament be holden in this Land until the Acts be certified into England:—

"At the Request of the Commons of the Land of

[2] 34 Henry VI, cap. VI (A.D. 1455). This Act was of force for three years only. See also 29 Henry VI, c. 5, which states the Custom "from time whereof memory runs not."

[3] Monck Mason, *Essay on the Antiquity and Constitution of Parliaments in Ireland*, pp. 24-25. See 25 Henry VI, c. 28 for exemption from attendance at Parliament of the Abbot of Tintern.

The fine for non-attendance was £20 (27 Henry VI, c. 21 to c. 2) unless Parliament itself exempted from attendance (see 28 Henry VI, c. 23).

Ireland, be it ordained, enacted, and established, That at the next Parliament that there shall be holden by the King's Commandment and Licence wherein amongst other the King's Grace intendeth to have a general Resumption of his whole Revenue sith the last Day of the Reign of King *Edward* the second, no Parliament be holden hereafter in the said Land, but at such Season as the King's Lieutenant and Council there first do certify the King under the Great Seal of that Land the Causes and Considerations, and all such Acts as (*to*) them seemeth should pass in the same Parliament, and such Causes, Considerations, and Acts affirmed by the King and his Council to be good and expedient for that Land, and his Licence thereupon, as well in affirmation of the said Causes and Acts, as to summon the said Parliament under his great seal of *England* had and obtained, that done, a Parliament to be had and holden after the Form and Effect afore rehearsed: And if any Parliament be holden in that Land hereafter, contrary to the Form and Provision aforesaid, it be deemed void and of none effect in Law."

This act had two effects. Before a parliament could be held, the prospective legislation had to be submitted by the executive power in Ireland to the King and the English Privy Council; and, consequentially, parliament was prevented from conceiving legislation and could only pass or reject the bills which had been approved of by the Lord Lieutenant and the Irish Privy Council and by the King and the English Privy Council.

Reading now this piece of legislation, one is bound to ask oneself what exactly would be done by an Irish parliament which wished to provide by legislation for some eventuality not foreseen at the beginning of the sessions. If such legislation were opposed to the interests of the bodies whose approval was necessary by the provisions of 10 Henry VII, chap. 4, obviously it could not become the law of the country. An angry parliament might draw public attention to a particular grievance by debate and resolution; but public opinion was not alive at the time; and in any case the parliament of Henry VII had no such angry feelings. It was, in its composition, quite unlike the later parliaments whose protests fill the pages of their Journals. It numbered no more than about 70 members. Of these many were themselves members of the Irish Privy Council. It was not representative even in the narrow sense in which it might be said that later parliaments were representative. "It is known to us all, that when the Acts of Henry the Seventh and of Philip and Mary, were passed into Laws, the people of this country were *not represented in Parliament*—I say the majority of the people. The English pale was confined, as I remember, to five counties. The remaining counties had no share in the legislature of this country: they were not admitted to send representatives until the time of James the First, above half a century afterwards."[4]

But supposing that, after parliament had met, a real need for legislation, for which provision had not been made beforehand, should arise, how could the difficulty have been met? Parliament might be dissolved, and fresh bills sent to England as a cause for summoning a new parliament. That would have been expensive; for if elections then were less costly than they are now, the difficulty of travelling was greater; and members would have resented this clumsy expedient, even if it were not illegal. Parliament was helpless; the Lord Deputy was helpless; and the King was helpless. Nothing could be done but to amend the Act by agreement between the three bodies. In effect this is exactly what was done to meet the difficulty. The inconvenience was not felt in the reign of Henry VII during which subsequent parliaments were held in 1499 and in 1500. Parliaments were held in the seventh, thirteenth and twenty-fifth years of the reign of Henry VIII. In all these years there was no urgent legislation which could not have been anticipated by the executive in Ireland. Then, when the religious changes were being made, the problem arose probably for the first time, and it was temporarily solved by including in the bills

[4] *Plain Reasons for new-modelling Poynings' Law, etc.*, Dublin, 1782.

transmitted to England one for the suspension of the procedure required by 10 Henry VII, c. 4.

In the parliament held in the twenty-eighth year of Henry VIII's reign, an act was passed (28 Hen. VIII, cap. 4) suspending Poynings' Law during the continuance of that parliament.[5]

A proviso to the suspension restricted the parliament from passing any act relative to the property of private persons, or incorporate bodies, or in derogation of grants from the crown to cities or boroughs, " but only such acts, ordinances, and provisions, thing or things, as shall be thought expedient for our soveraigne lord the King's honour, the encrease of his grace's revenues and profits, and the common weale of this his land and dominion of Ireland." The commas in this concluding sentence of the act, and the use of the copulative " and " led to disputes in parliament, and towards the end of the session an act was passed (28 Hen. VIII, cap. 20) declaring the effect of the previous act. This act stated that " diverse and sundry arguments alreadie have been moved and stirred," and enacted that the words " or " " or " should be substituted for the copulatives, so that an act coming under any one of the three heads and not necessarily under all three together could be passed into law despite Poynings' legislation.

The next parliament was held in 3 and 4 Philip and Mary, the only parliament of that reign; and the fourth act of this parliament amended 10 Henry VII, c. 4. This Act, " An Act declaring how Ponings Act shall be exposed and taken," both explained and amended the previous legislation.

3 & 4 Philip and Mary, Chapter 4.

" Where at a Parliament holden at *Drogheda* the *Monday* next after the Feast of Saint *Andrew* the

[5] " For the great trust and confidence that the King's highnesse hath in his deputie and counsaile of this his land of Ireland, and in the nobles spiritual and temporal, and the commons his loving subjects of the same, his Majestie is pleased and contented, that it be enacted by authority of this present parliament," etc. The usual phrase, " and be it enacted," is omitted. The Act bears all the traces of one framed by the Council and not by the Parliament.

Apostle in the Tenth Year of the Reign of the late King of famous Memory *Henry* the 7th Grandfather unto our Sovereign Lady the Queen before Sir *Edward Ponings* Knight, then Lord Deputy of this Realm of *Ireland,* An Act among other things was enacted and made for and concerning the Order Manner and Form of Parliament to be from henceforth holden and kept in this Realm of *Ireland* in Form following " (Here are repeated the words of the statute of 10 Henry VII) " as by the said Act more at large it doth appeare, for as much as sithence the making of the said Act, diverse and sundry Ambiguities and Doubts have been made and risen upon the true understanding and Meaning of the same : For the avoiding of the which Doubts and Ambiguities, and for a full and plain Declaration of the true Meaning and Understanding of the said Act, Be it ordained, Enacted, and Established, by Authority of this present Parliament, That the said Act and every Clause and Article therein contained, shall from the first Day of *September* last past, be expounded, understanded, and taken as hereafter followeth, that is to say That no Parliament be summoned or holden within this Realm of *Ireland,* until such times as the Lieutenant, Lord Deputy, Lord Justice, Lords Justices, Chief Governor or Governors or any of them, and the Council of this said Realm of *Ireland* for the time being shall have certified the King's and Queen's Majesties her Heirs and Successors under the Great Seal of this said Realm of *Ireland,* the Considerations, Causes, and Articles of such Acts, Provisions and Ordinances as by them shall be then thought meet and necessary to be enacted and passed here by Parliament, and shall have also received again their Majesties Answer under their Great Seal of *England,* declaring their Pleasure either for the passing of the said Acts, Provisions and Ordinances, in such Form and Tenour as they should be sent into *England,* or else for the Change or Alterations of them, or any Part of the same. And be it further enacted by the Authority aforesaid, that after such Return made, and after Licence and Authority to summon a Parliament within

the said Realm of *Ireland,* granted under the Seal of *England,* unto the said Lieutenant or Lord Deputy, or other Lord Justice, Lord Justices, Chief Governor or Governors of the same Realm of *Ireland* for the time being, and not before, the same Lieutenant, Lord Deputy, Lord Justice, Lords Justices, Chief Governor or Governors, shall and may summon and hold a Parliament within this Realm of *Ireland,* for passing and agreeing upon such Acts and no other as shall be so returned under the said Great Seal of *England,* and forasmuch as many Events and Occasions may happen during the time of the Parliament the which shall be thought meet and necessary to be provided for and yet at or before the time of the summoning of the Parliament was not thought nor agreed upon. Therefore be it further Enacted or Established by Authority of this Parliament, that as well after every such Authority and Licence sent into this Realm of *Ireland,* as also at all times after the Summons, and during the time of every Parliament to be hereafter holden within the said Realm of *Ireland,* according to the Tenour and Form of this Act, the Lieutenant, Lord Deputy, Lord Justice, Lords Justices, Chief Governor or Chief Governors and Council of the same Realm of *Ireland* for the time being, shall and may certify all such other Considerations, Causes, Tenours, Provisions, and Ordinances as they shall further then think good to be enacted and established at and in the same Parliament, within the same Realm of *Ireland* to the King's and Queen's Majesties her Heirs, and Successors under the Great Seal of this said Realm of *Ireland,* and such Considerations, Causes, Tenours, Provisions, and Ordinances, or any of them as shall be thereupon certified and returned into the said Realm, under the Great Seal of *England* and no others, shall and may pass and be enacted here in every such Parliament within this said Realm of *Ireland,* in case the same Considerations, Causes, Tenours, Provisions, and Ordinances, or any of them be agreed and resolved upon by the three Estates of the said Parliament : any thing contained in this present Act or in the foresaid Act

made at Drogheda to the contrary notwithstanding." It continues that acts of preceding parliaments are to remain in force and not to be in any way affected by the passing of this act.

The explanation of the act of Henry VII consisted in :—

(*a*) making the words " King's Lieutenant and Council " in the original act equivalent to " Lieutenant, Lord Deputy, Lord Justice, Lords Justices, Chief Governor or Governors or any of them, and the Council ";

(*b*) " the King " includes his Heirs and Successors;

(*c*) " Acts " includes " Acts, Provisions, and Ordinances ";

(*d*) The original act is not to be held to preclude the King, etc., from altering the articles sent to him. He is not bound either to return or reject them in the form in which they are transmitted to him.

(*e*) The articles returned under the Great Seal of England are the only proposals for legislation which it is within the competence of the Parliament of Ireland to pass and agree.

None of these explanations is unimportant.

The amendment made by 3 and 4 Philip and Mary, c. 4, was that after parliament had met, draft legislation might be submitted by the executive authority in Ireland to the King and Privy Council in England, and the bills, as returned, might be passed into law in the Irish parliament.

This Act made it clear that :

(*a*) An Irish parliament could be summoned only after Bills, originating with the Executive in Ireland, had been sent to England, there to be amended, or approved (with the power of rejection) and returned to Ireland.

(*b*) Bills could originate with the Executive in Ire land, and the legislature had, with regard to

such Bills, only a power of acceptance or rejection.

(c) Although such bills could be re-cast in England, there was no power in Ireland to do more than pass or reject them in the form in which they were received from England

In the next reign, that of Elizabeth, during which six parliaments were held in Ireland,[6] two acts were passed relative to 10 Henry VII, c. 4. Both of them were passed in the second parliament (11 Eliz.). The first of these, 11 Eliz., Sess. 2, cap. 1, applied only to the Parliament which enacted it. After reciting the act 10 Henry VII, c. 4, it proceeded along the lines of the act of Philip and Mary, although all reference to that act is omitted. It authorised the passing of bills not provided for in the bills transmitted to England before the meeting of parliament, provided that the procedure of transmission was adhered to; and then, it broke fresh ground by enacting that legislation must be openly proclaimed in the cities of Ireland (Dublin, Waterford, Cork, Limerick, Drogheda and Galway) before it should become effective as the law of the country.

II Elizabeth, Sess. 2, cap. 1.

"An Act authorising Statutes, Ordinances, and Provisions to be made in this present Parliament concerning the Government of the common Weale, and the Augmentation of Her Majesties Revenues, notwithstanding Poynges Act."

"In their most humble wise beseechen your most excellent Majesty, the Lords spiritual and temporal, and all other your Highness most loving and obedient subjects, the Commons in this your high Court of Parliament assembled: That where in a Parliament holden at *Drogheda,* the *Monday* next after the Feast of Saint *Andrew* the Apostle, in the tenth year of your most noble Grandfather King *Henry* the Seventh, before Sir *Edward Poynings* Knight, then Lord Deputy of this

[6] In the 2nd, 11th, 12th, 13th, 27th and 38th years of the reign.

Realm, it was amongst other things enacted and established, That no Parliament (here follow words of enactment). By occasion whereof, no Establishments or Provisions can be concluded by the Body of your Majesty's Parliament being assembled, but such only, as have been before their Assembly certified unto your Highness, and affirmed by the same. And so the most grievous Sores of this your Highness Common-wealth, which are best known to such as are and shall be appointed to that High Court, and most felt by them, cannot be conveniently reformed, as having not been before certified to your Highness. It may therefore please your Majesty of your most aboundant Grace, and for the princely Zeal that your Highness hath ever tenderly borne unto this your poor Realm, that it be enacted, ordained and established, and be it enacted, ordained and established by your most excellent Majesty, with the Assent of Us the Lords spiritual and temporal, and Commons in this present Parliament assembled, and by the Authority of the same, That all and every the Acts, Statutes, Ordinances, Provision, Thing and Things of what Nature, Name, Condition or Quality the same shall be of, to be had, done, made, ordained and established, by the Authority of this present Parliament that shall concern the Common-weal of this Realm, or of any Province, Territory, Country, Shire, Member or Part thereof, or any good Orders for Repression or Reformation of Enormities, Vices and Abuses that do or may annoy this Common-weal, or any Part or Member thereof, or your Highness Subjects resiant therein, or the better correcting or amending of Defaults that shall be seen to the said Court of Parliament meet to be reformed for the Ease of your Highness Subjects, or the Devise of wholesome Ordinances for the Correction and well ordering of the Life and Manners of your Majesty's People here, or the Establishment of civil Policy, Quiet and Order amongst your good and loving Subjects, or the Augmentation of your Majesty's Revenues, or the Assurance of your Majesty, your

Heirs and Successors to any Lands, Tenements, Hereds, Casualties, Commodities or Profits which shall be certified unto your Majesty under your great Seal of this your Realm of *Ireland,* and by your Highness allowed and consented unto, and after returned unto *Ireland* under the Great Seal of *England,* and after openly proclaimed in the Cities and Towns of *Dublin, Waterford, Cork, Limerick, Drogheda* and *Galway,* shall immediately after the said Proclamation in form aforesaid, made and pronounced, and not before, be good, effectual, and of full Force and Validity to all Purposes, Intents and Constructions. The said Act made at *Drogheda* or any other Act or Acts, Constitution, Use, Law, Prescription or Custom heretofore had, done, made, used or continued within this Realm to the contrary of this present Ordinance or Establishment in any wise notwithstanding."

The wording, " And so the most Grievous Sores of this your Highness Commonwealth, which are best known to such as are and shall be appointed to that High Court, and most felt by them, cannot be conveniently reformed, as having not been before certified to your Highness," indicates the difficulty caused by the inadequacy of the provisions of the Act of Poynings' parliament, and although the amendment of 3 & 4 Philip and Mary had removed this difficulty by empowering the Irish Privy Council to certify bills to England during sessions of parliament, a fresh attempt was now made, strangely ignoring the amending and explaining act, to establish an orderly method of legislation. The Irish Privy Council is not mentioned in the Act. Three bodies only are considered as parties to Irish law making: the Lords and the Commons of Ireland, and the sovereign. There is a hint of a desire to eliminate the Irish Privy Council from direct intervention in legislation, leaving to it its proper constitutional duty of advising the sovereign when transmitting the bills for assent or dissent; nor is there any power deliberately given to the sovereign to amend bills sent from the Irish legislature. One is however bound by

the terms of the Act to regard it as a suspension and not a repeal of Poynings' law (10 Henry VII, c. 4).

This Act of Elizabeth was, like all the suspensions of Poynings' law, passed at the instigation of the executive; not indeed without difficulty. The Irish Lord Chancellor, writing an account of the parliament to Cecil, February 17th, 1569,[7] explained that when the session opened, the bill for suspending Poynings' act was " dashed," and in other respects the parliament was inclined to be antagonistic to the proposals of the executive; but the Lord Deputy met all objections with courteous explanations and, in the end, the suspension bill was passed.

It will be noticed that the suspension of Poynings' act was limited to certain kinds of legislation. The list is exhaustive of all public affairs, and seems to be merely another way of restricting the suspension, as was done in 28 Henry VIII, cap. 4, to exclude acts relating to the property of private persons or incorporate bodies, and acts in derogation of grants from the crown to cities and boroughs. In the absence of any record of the discussion which centred round this act of suspension, this little point is of interest as indicating that the previous legislation was being followed as a model; and it is a reminder that Poynings' law, while creating difficulty in its literal operation, was regarded as a statute which must be kept alive in order to avoid in private legislation what had before been suffered in both public and private enactments. Parliament did not want to allow the magnates of the Pale to be untrammeled in dealing with the acquisition or transfer of property rights. Poynings' law in 1569 was still a parliamentary safeguard. An English lord, given the great power of Governor-General of Ireland, more distant from Westminster than Washington is to-day, needed to be restrained by some *ad hoc* means. It was this difficulty of control, in days when great latitude had of necessity to be given to the colonial governor, that forced some such law as that under discussion.

[7] *State Papers Ireland,* 1509-1573, Cal., p. 402.

This parliament began on 17th January, 1569. Before it met, the Irish Council sent to the Queen twenty bills and these were " allowed " and returned to be submitted to the parliament. Fifteen of them were passed and were assented to by the Governor as empowered in the Commission authorising him to summon the parliament. Five of the bills were amended in the Irish parliament and remitted to the Queen for her allowance. In her Commission to the Chief Governor in returning these amended bills it was stated " her Majesty had now lately, since the making, establishing and enacting of the said Act, in a late Session of her said Parliament, received from her Deputy, under the Great Seal of her Realm of Ireland, certain necessary and profitable Acts, Ordinances and Provisions "—here the five amended bills are mentioned—" all which several Acts were sent hither from you unto us before the beginning of our said Parliament, under our Great Seal of our said Realm of Ireland, and were returned to you again, under our Great Seal of England, as Bills, we did then allow of: Nevertheless, in the perusing and consideration of them since we last received them from you, we perceive and find that our said Court of Parliament hath, upon the treating and debating the said Bills, thought meet and convenient, by their Wisdom, to make some Alteration or Change of some part of them, and likewise to certain other of the said Bills some good and necessary Addition, which their Doings we do not mislike, but take in very good part, as by the declaration of our further pleasure touching the said Acts, here after in these Presents doth appear." The Queen consented to the amended bills. " We do therefore by these Presents, under our Great Seal of England, according to the tenor of the said former Act, made and established in our said Parliament, holden in our said Realm of Ireland, intituled " (here is title) " give our royal and princely Allowance and Consent unto all and singular the said Several Statutes and to every of them."[8]

[8] Quoted pp. 65-67, Lodge. *The Usage of Holding Parliaments and Passing Bills of Supply in Ireland*

The next act, 11 Eliz., Sess. 3, chap. 8, is of much historical interest. After having suspended the operation of 10 Henry VII, c. 4, the Irish parliament in its next session apparently became alarmed lest this should be taken as a common precedent, and it enacted that a bill to suspend or repeal 10 Henry VII, c. 4, should not be certified into England unless it had first been agreed upon by the majority of the two estates in parliament assembled. The act has been commented upon by Irish writers as a strange piece of legislation; because, they say, it pretended to bind future parliaments. Taken in the light of the acts of 10 Henry VII and 3 and 4 Philip and Mary, it is an inexplicable act. The Irish parliament could not, by these acts, pass or agree to any articles of legislation which had not been received in England and approved of by the King and Privy Council there. How then could " the more Number of the Lords assembled in Parliament, and the Greater Number of the Common-house " agree upon a bill prior to its certification and return? The act is still more difficult to explain, in view of the omission from it, as well as from 11 Eliz., Sess. 2, chap. 1, of a recital or quotation of the act 3 and 4 Philip and Mary, chap. 4. Some commentators go so far as to say that this parliament of Elizabeth forgot the legislation of the parliament of Philip and Mary.[9] If the act of Philip and Mary was in the knowledge of the draughtsmen and legislators, one would expect a reference to it in the preamble, since the entire act of Henry VII is quoted. If the act escaped them, and they relied only on the original act of Henry VII, they had no authority for crediting parliament with power to discuss a bill which was not included in the transmission upon which the parliament was summoned. Lord Mountmorres suggests that the first of these acts of Elizabeth's parliament was " carried in a thin house and by surprise "; but there is clear evidence that it was suggested by the

[9] See an official apologia for Poynings' Law published in 1770 but recalled on day of publication: in *The Usage of Holding Parliaments and of Preparing and Passing Bills of Supply in Ireland stated from Record*, page 64 of edition printed by Dr. Lucas, M.P.

Government; the need for it was due to the rejection of an approved Subsidy Bill and the desire of Government to secure the enactment of an alternative proposal; and if drafted on behalf of Government, it ought to have been more truly in accord with the existing legislation affecting parliamentary procedure. Lord Mountmorres read the second of these acts as meaning that the assent of the majority of all the Lords and of all the Commons summoned to sit in parliament, and not merely of those present on a given day, was necessary before " Poynings' Act " could be suspended or repealed.[10] The omission of any reference to the amending act can be explained only by assuming that its existence was overlooked; and at a time when statutes were not kept as carefully as they are in modern days and parliaments were held infrequently, such an inadvertence was not impossible. The Irish act 33 Henry VIII, chap. 2, mentions an act passed in 13 Henry VII, of which there is no record nor was there at the time reference was made to the act, " the rowle of record of which Parliament by some sinister meanes was imbeaseled, and by no means now can be found." The loss of rolls, by " imbeaselment " or otherwise, was not uncommon, and it is reasonable to assume that they might also have been temporarily mislaid.

The " repeal " or " suspension " act of Elizabeth was passed, at the desire of the executive, in order to protect the state revenues which were in danger of lapsing from lack of the necessary legislation. Having repealed 10 Henry VII, c. 4, for the duration of the entire parliament of 11 Eliz., the Lords and Commons, fearing lest, at some subsequent period, with a Deputy less loyal to the English interest than Sir Henry Sydney, a reason should arise for again suspending 10 Henry VII, thus leaving parliament free under pressure from a rebellious Deputy to repeal Poynings' law for all time, proposed the second of the two acts. The object of the later one is not so clear. The wording is no doubt, quaint; and is capable of bearing two inter-

[10] *The History of the Principal Transactions of the Irish Parliament from the Year* 1634 *to* 1666, p. 53. Right Hon. Lord Mountmorres.

pretations. The more Number of the Lords assembled in Parliament, and the Greater Number of the Common-house may mean simply the usual parliamentary majority on a division. The sense of the statute would then be to prevent a Suspension Bill being transmitted to England as one of the reasons for summoning a parliament, as had been the case in this very parliament of 1569. A bill so sent, without the privity of parliament and before it met, would, when received back under the Great Seal of England, bear a certain recommendation which a loyal parliament would be loth to ignore. The draft of a Suspension Bill which Sir John Perrot wished the Parliament of 1585 to pass bears out this interpretation, which is after all the natural interpretation to take. The draft,[11] referring to 11 Eliz. Sess 3, chap. 8, summarises it " that no bill shall be certified into England for the repealing or suspending of the statute passed in Poynings' time (11 Hen. VII *sic*) before the same bill be first agreed upon in a session of Parliament holden in this realm."

11 Elizabeth, Sess. 3, chapter 8.

" Whereupon Experiment of the Right Honourable Sir *Henry Sydney,* Knight of the noble Order of the Garter, Lord President of *Wales,* and Lord Deputy of this your Majesty's Realm of *Ireland,* his Great Travail and Care for the Advance of the Glory of God, Your Majesty's Honour and the Utility of the Commonwealth of this your Highness Realm, and an undoubted Hope that his Lordship would not seek the passing of an Act, but such as should tend to the Furtherance of your Majesty's Service, and Benefit of your Highness Realm. We your Majesty's Subjects assembled in Parliament assented to the Repeal of a Statute passed by Sir *Edward Poynings,* Lord Deputy of *Ireland,* prohibiting either any Parliament to be summoned, or any Act to be treated of in Parliament before the Acts were certified under the Great Seal of this your Majesty's

[11] *State Papers.* Carew, MSS., 1575-1588, Cal. pp. 4034.

Realm and returned hither under the Great Seal of *England,* before which Statute, when Liberty was given to the Governors under Your Majesty's Progenitors to call Parliaments at their Pleasure, Acts passed as well to the Dishonour of the Prince, as to the Hinderance of their subjects : the Remembrance whereof would indeed have stayed us from condescending to the Repeal of the said Statute, were it not that the Government of Your Majesty's Deputy hath been alway, and continueth such as to all your Highness Subjects giveth just Cause, to reckon what proceedeth through his Motion to your Highness to be meant only for the Honour of Your Majesty, and the common Benefit of this your Realm, and therefore as we mought safely, so do we willingly agree to the Repeal of the said Statute, but most Gracious Sovereign, fearing the some Governors hereafter should hap not to make answer unto the Expectation of Your Majesty or Your Highness Heirs and Successors by whom he should be appointed Governor, and not following the Example of Your Highness Deputy at these presents, will upon Affection or some other Respect, abuse the like Liberty given him. We your Majesty's Subjects now assembled in Parliament do most humbly beseech your Highness that it may please the same, that it may be enacted. And be it enacted, ordained and established, by Your Majesty with the Assent of the Lords spiritual and temporal, and the Commons in this present Parliament, assembled, and by the Authority of the same, That hereafter in the Government if (*sic?* of) any or Deputy or Governor of this Your Majesty's Realm there be no Bill certified unto *England* for the Repeal or suspending of the said Statute passed when Sir *Edward Poynings* was Lord Deputy of *Ireland* before the same Bill be first agreed on in a Session of Parliament to be holden within this Realm, by the more Number of the Lords assembled in Parliament, and the Greater Number of the Commons-house. And if there be that any Act passed or to be passed thereupon Touching the Repeal or suspending of the said Statute passed in *Sir Edward Poynings'*

Government to be utterly void, and of no effect to all purposes and Intents."

This act is important for two reasons. In the first place, it is proof that the Irish parliament looked upon the statute 10 Henry VII, c. 4, as a protection to the legislature against the executive in Ireland. Secondly, taken with other evidence of the manner in which the provisions of 10 Henry VII, c. 4, and the explaining and amending act of Philip and Mary were in practice administered in Ireland, it gives strong ground for concluding that these acts were not, in fact, at this period carried fully into effect; that they were on the Statute Book as a protection to which appeal could always be made if necessity arose; and that " Poynings' Law " in the reigns of Henry VII, Henry VIII and Elizabeth was not, in its operation, identical with " Poynings' Law " in the later periods.

The first point is not in historical dispute. It is the general opinion formed of the original intention of the legislation. It is generally agreed, also, that the possibility of employing the laws passed in the reigns of Henry VII and of Philip and Mary for the purpose of curbing the freedom of parliament was not foreseen when the legislation was passed. The law, remaining unchanged, was used in two different periods for different purposes and with different results.[12] There was, indeed, a fair case for legislation of some such kind in the peculiar circumstances of the time. " The evil to be met was the eventual treachery of a lord lieutenant."[13] The parliament decided to limit the authority of the Lord Lieutenant and to be more directly under the supervision of the King. In the reign of Henry VI, the Lords and Commons of Ireland sent a

[12] It is difficult to find any evidence to support Gilbert's view that Henry VII " decided to undermine the independent rights hitherto exercised by the Colonial Parliament " *History of the Viceroys of Ireland,* J. T. Gilbert, 1865, p. 148 Plowden says the Act was passed " for keeping up in future a complete English ascendancy and control in the English Cabinet over the legislature of Ireland," *History of Ireland,* Vol. I, p. 275, but he imported the later interpretation ; and in his *Historical Review* he quotes contradictory evidence (vide Vol. I, p. 275)

[13] *Plain Reasons, etc.,* p. 15. See also Ball, *Legislative Systems,* p. 14 ; and Monck Mason *Parliaments in Ireland,* pp. 115-116.

complaint to the King against the Lord Lieutenant (James, Earl of Ormond) in A.D. 1441, in which they wrote:—"At divers parliaments (when the said Earl hath had the rule there) he hath made and ordained Irishmen (grooms and pages of his household) knights of the shire, the which would not in no wise assent to no good things, that should profit and avail to your sovereign Lord. And also hath suffered divers lords spiritual and temporal to absent them from the parliament heretofore, taking from them great fines, to his singular avail, where the profit should be yours," and they asked that an "inquisition" should be held into the Acts performed by the Lord Lieutenant during his term of office, but that he should be recalled first: "And the said Earl must be discharged, before the said inquisitions be taken, for he hath so rigorously intreated your poor of your said land, before this time, that they dare not say the truth, while that he standeth your lieutenant there, without that he be first discharged, lest that for their sooth saying, he would be more rigorous to them hereafter, than he was unto them before, the which they might not bear."[14]

Ireland was not England and the colony was still being hardly held by the sword. We have this picture from the proceedings against Kildare before the Privy Council of England:

> WOLSEY: "I wiss, my Lord, there be shrewd Buggs in the Borders, for the Earl of Kildare to fear; the Earl, nay the King of Kildare."
>
> KILDARE: "I would you and I had changed Kingdoms but for one Month, I would trust to gather up more Crumbs in that space, than twice the Revenues of my poor Earldom; But you are well and warm, and so hold you, and upraid not me with such an odious Term. I slumber in a hard Cabin when you sleep in a Soft Bed of Down; I serve under the King's Cope of Heaven, when you are served under a Canopy; I drink water out of a skull, when you drink Wine out of Golden Cups; my Courser is train'd to the Field, when your Jennet is taught to Amble; when you are Graced, and Belorded and Crouched, and Kneeled unto, then find I small Grace with our Irish Borderers, except I cut them off by the Knees."[15]

[14] Carew MSS., Volume 606, Folio 74 b, Library, Lambeth Palace, p. 50 of *Statute Rolls, Ireland*, Henry VI, published by Public Record Office Ireland.

Again, in the parliament held at Dublin in the year 1455, when the Earl of Kildare was Lord Deputy (acting for Richard, Duke of York, Lord Lieutenant), the Irish parliament passed an ordinance "That a message shall be sent to England to assure our sovereign Lord the King and Duke of York, his lieutenant of this land, of the great eminent danger that rests in this said land, by the which this said land is likely to be finally destroyed, unless the most speedy remedy be had out of England for the reformation thereof, of which message so to be sent with six persons, that is to say, one from every of these four counties, that is to say, one for the county of Dublin, another from Meath, the third from Uriell, the fourth for the county of Kildare, with one Prelate, and another for the Council of the King. The which persons for executing the said act, to be appointed by the lords spiritual and temporal of the said parliament according to their discretions, of the most worthy and able; the which persons so elected to have for their expenses in the said message two hundred marks, to be levied and taken of the said four counties, so that the temporality and spirituality concur in the payment of the sum aforesaid, and this to be done for the fealty and loyal duty that we owe to our Lord the King.[16]

After Poynings' act, no longer could a Lord Deputy, backed by the armed forces of the Crown, use his influence to carry legislation inimical to the loyal interest.

There is even a mild case to be made for the act on the ground suggested by Lord Macartney, in 1774, that it "precluded all hasty determination." "Thus the

[15] *Hibernica Anglicana*, Vol. I, p. 219.

[16] *Statute Roll*, 34 Henry VI (*Statute Rolls of Ireland*).

constitution took a more stable form, a better intercourse was introduced between the sovereign and his people, and the different views of the two nations were reconciled, by an act which precluded all hasty determination upon their mutual or particular interests.[17] The fourth act of Poynings' parliament certainly ensured that legislation should not be hastily determined in Ireland. The official reply to Dr. Lucas's pamphlet protesting against the initiation of a Supply Bill outside the Irish House of Commons was based on the view that Poynings' law simply restored the ancient usage of parliament in Ireland which had fallen into disuse during the Civil Wars in England and so enabled the Irish deputy to help himself at will to legislation. The intention of Poynings' act was to restore the Crown's control.[18] When in 1585 (27 Eliz.) Sir John Perrot, Lord Deputy, summoned a parliament, a proposal to repeal Poynings' law was made by the Government and was indignantly rejected by the parliament, for fear, according to Plowden,[19] that the administration intended to force an oppressive scheme of taxation. A draft of the bill is available, examined by " Ni. Walshe, Speaker of ye Parliament for the Commons."[20] It declared that, as a result of the acts 10 Henry VII. chap. 4, and 11 Eliz. Sess. 3, chap. 8, " we, the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, are shut up and forbidden to make any law or statute unless the same be first certified into England: Therefore considering the great zeal and love we find in Sir John Perrot, Lord Deputy, and for that he has granted us the favour to be admitted to conference for any bills that shall be treated of, we conclude that a bill be sent into England for the repeal of the said Act of Sir Edward Poynings; and that all Acts passed shall be

[17] *Account of Ireland*, Macartney, p. 7.

[18] *The Usage of Holding Parliaments and Passing Bills of Supply in Ireland Stated from Record.* John Lodge, 1770, p. 62.

[19] *Historical Review of the State of Ireland, etc.*, 1803, Vol. I, p. 80.

[20] *State Papers, Carew Manuscripts*, 1575-1588. Cal. pp. 403-404.

good and available, as if the said two statutes had not been made."

This parliament met in May, 1585. Writing to Sir Francis Walsingham on 30 May, the Lord Deputy gave an account of the rejection of the measure.[21] Although from the wording of the bill, one would conclude that it originated in the parliament, it had already been prepared by the Irish executive and sent to the Queen in Council in April.[22] By 11 Eliz. Sess. 3, chap. 8, this was illegal, but doubtless the communications were what would be called semi-official.

The parliaments of the reign of Elizabeth cherished Poynings' law as a great safeguard against hurried schemes of " composition " and cesses. The executive would gladly have seen the annoying legislation repealed from the statute rolls. For refusing to permit this, Perrot seems to have visited his anger on the opposition in parliament. There is extant a letter from Archibald Loftus to Burghley clearing himself of any dealing in parliament against the Suspension Bill;[23] another, dated December 10, 1585, from Viscount Gormanston and other Lords to Queen Elizabeth in which they express their regret for having opposed the repeal and ask that the act may be suspended;[24] and there are confessions from six members of parliament throwing the blame for their resistance to the bill on two " disturbers of the Parliament " who influenced them against the Lord Deputy.[25] That these letters and confessions were not spontaneous or due to any very sincere contrition is indicated by a pathetic letter sent to Walsingham in February 1586 by Oliver Plunket, fourth Baron of Louth, in which he complains that because he withstood the repeal of Poynings' act, the Lord Deputy was threatening him, and discrediting him by every possible means, as well as calling him bad

[21] *State Papers, Ireland*, 1574-1585. Cal., p. 565.

[22] *State Papers, Ireland*, 1574-1585. Cal., p. 561.

[23] *State Papers, Ireland*, 1574-1585. Cal., p. 575, 12th August, 1585.

[24] *State Papers, Ireland*, 1574-1585. Cal., p. 587.

[25] *State Papers, Ireland*, 1574-1585. Cal. p. 570, June, 1585.

names such as " a rash young man of very small haviour and less credit."[26]

So great was the anxiety of the Lord Deputy to repeal Poynings' law that he held out hopes to the Catholics that he would allow them liberty to practise their religion in public if they supported him. This was complained of afterwards.[27] In 1600 the Irish Lord Chancellor Loftus and the Bishop of Meath (Thomas Jones) writing to the Archbishop of Canterbury (John Whitgift) complained that " massing " was then accounted as no offence; that the mass was celebrated publicly; and that this first began in Perrot's government when he attempted to win support for the repeal of Poynings' act.[28]

In the reign of Henry VII, it had been deemed necessary to restrain an autocratic Deputy, like the Earl of Kildare, by such a measure as this. When, under Elizabeth, English Deputies were appointed, eager to bring the country to subjection, desiring, as they naturally would, a somewhat free hand to meet emergency difficulties by means of emergency legislative measures, all however for the benefit of the Queen's interest, the Irish parliament conservatively held to its rights and refused to allow the great safeguard to be taken away from it. This has puzzled commentators who explain the effect of Poynings' legislation to have been " not so much to have regulated the course of Irish Parliaments as to have extinguished Parliamentary Government in Ireland.[29] That part of the Act which left to the executive the power of summoning a parliament was not new. Such had always been the right of the executive. If it was exercised less frequently after than before Henry VII, the cause must be sought elsewhere than in Poynings' law. The evidence all points to the conclusion that, at 1586, the restrictions on the making of laws in Ireland were welcomed by the Irish

[26] *State Papers, Ireland*, 1586-1588. Cal., pp. 20-22.

[27] *State Papers, Ireland*, 1588-1592. Cal., p. 365.

[28] *State Papers, Ireland*, 1600. Cal. (7th April).

[29] Preface by the Editors of the *Calendar of Irish State Papers*, 1603-1606, p. xviii.

parliament, and that every endeavour was made by the executive to loosen these restrictions. It is hardly fair, then, to blame these early parliaments as the later upholders of parliamentary independence were inclined to do when, like Lucas, they spoke of " those dark ignorant days in which certain Crown Officers are sayed to have made up a motly, medley parliament."[30]

Prendergast, too, completely misunderstood the Poynings' legislation. " The first blow to the English of Irish birth was the limiting of the power of the Parliament. In the reign of Henry VII, Sir Edward Poynings forced from the Irish Parliament a statute whereby the Privy Council of England were made virtually controllers of the Parliament of Ireland; for thenceforth it could originate no statutes, and could pass only such as had been first approved by the Privy Council of England. The Parliament had in fact long become devoted to the Earls of Kildare who had thereby grown too powerful for the Kings of England."[31] This erroneous view is generally accepted; but I have been unable to come upon a single piece of contemporary evidence in support of it and I have adduced evidence in contradiction. Prendergast and other historians accepted the view of Irish politicians of a later date, but the " Poynings' Law " of which they spoke was, in operation, not the Poynings' law which was made use of in the sixteenth century. Swift's comment on the authority derived from Poynings' act, " a power most indirectly obtained," was undoubtedly sound.[32] The author of " Hibernia Anglicana " writing in 1689 expressed what he thought was the intention of the legislation : " nevertheless whenever it shall happen that the English and Protestant interest in *Ireland* shall overtop its Enemies, and make a Majority in Parliamentary Assemblies, that *Act of Poyning's,* which was made only to help the English when too weak for

[30] Annotation to *Usage of Holding Parliaments*, Dublin, 1770, p. 36.

[31] *The Cromwellian Settlement of Ireland*, John P. Prendergast, 2nd edn., 1870 from Preface to 1st edn., pp. xviii and xix.

[32] *The Drapier's Letters.* (Letter III.)

the Irish, will be obsolete and useless, when the Irish Popist Interest becomes inconsiderable."[33] The "Protestant interest" was not strong anywhere in Henry VII's reign, but there was an English Catholic and an Irish Catholic clash before Protestantism made a clearer marking of the pre-existent religious division. Professor Mary Hayden, in an undocumented and sketchy account[34] in the Journal of the Royal Society of Antiquaries of Ireland (Vol. IV Part II, 1924) wonders that the parliament should in 1585 have passed an act requiring any piece of legislation to be submitted for its consideration before being sent by the Irish Privy Council to England, declaring it as "something without precedent since the passing of Poynings' Act itself" (p. 112 Journal). The 16th century Irish parliament was establishing precedents, and the legislation of 1570 was complementary to that of 1494. That it was parliament and not any external authority which was so fashioning the law of the Pale is the explanation of the inclusion in Sir John Perrott's draft of the phrase "and for that he has granted us the favour to be admitted to conference for any bills that shall be treated of."

What the Irish parliament in the 16th century was attempting to do was to devise a sound and safe method of colonial government; and the acts of Henry VII, Philip and Mary, and Elizabeth represent their endeavours to make the scheme adequate not only for their own conditions, but permanent also, as only those people of the middle ages understood permanency. Just as in their paintings they sought to mix colours which would last for ever, and in their churches they built temples for posterity to worship in, so they would strive hard to avoid a jerry-built act of parliament. It was not enough to say in writing, as modern legislators do, what they themselves thought good for themselves leaving to other generations to chop and change to meet their special wants. They would legislate for all

[33] *Hibernia Anglicana* (Richard Cox), Vol. I, p. 187.

[34] The Origin and Development of Heads of Bills in the Irish Parliament.

time. Although they were of English origin, they seem to have developed something of the Celtic genius for logical arrangement. When one considers how their attempts were turned against themselves at a later date, when their descendants had discovered a nationality of their own, one is bound to admit that even the elaboration by accident of a patchwork constitution in the mother-sister country[35] proved preferable in the result to the hard-and-fast legislation passed in Ireland.

[35] An Irish pamphleteer of the 18th century so named England; and the confused question of relationship is still a matter of doubt.

CHAPTER II

The Undoing of the Colonial Parliament

In anticipation of the parliament which was held in Ireland in 1613, which was the only parliament of the reign of James I, bills were transmitted by the Irish Executive to the King. Some of these were suppressed. On the other hand the King caused some bills to be sent to Dublin, with instructions to the Lord Deputy (Sir Arthur Chichester) to have them ingrossed and returned to him for approval as required by Poynings' act. This was unusual; and, if the word may be used, unconstitutional. In the Bill of Subsidies so sent, blanks were left for the Irish minister to complete, for the reason that the Irish measures and prices were better known to him.[1]

Before the parliament met, the Irish Privy Council had a discussion concerning Poynings' law; and it was decided to apply to the King for sanction to place before parliament a bill for suspending the operation of this legislation in regard to private bills. The answer of the English Privy Council, dated 13th April 1613, throws much light on the previous history. The precedents for suspension, quoted by the Lord Deputy, were considered and it was concluded that none of them interfered with the permanent application of the original act, as amended. Frequent dispensations weaken the authority of any law. If the present law should cause inconvenience to the government, it would be preferable to alter it suitably for all time than to adopt the old method of a temporary suspension. It was noted that the act had been passed originally because of " the singular affiance " which the Irish parliament placed in England; in order to avoid having to pro-

[1] *State Papers.* Ireland 1611–1614. Cal. pp. 285-6.

nounce upon a bill until it had first been maturely digested; and lest one party in the parliament should take another by surprise and secure the passage of a bill to the public hurt.[2] These were the considerations stated by the English Privy Council as reasons for adhering to Poynings' law.

It was a complaisant parliament, following upon the tragic struggle, which like many tragedies possesses facets of comedy, between the Catholic members and the government. After the Plantation of Ulster, new parliamentary boroughs were created by the Lord Deputy, Sir Arthur Chichester, and when parliament met, the preponderance of these mushroom members, all Protestant, confirmed the fears of the loyal Catholic gentry that the penal laws would be stringently enforced. A proclamation had been issued on 1st October 1612 by James Carroll, Mayor of Dublin, ordering Jesuits and other priests to leave at once, and warning the citizens of the penalties for harbouring them—a vague proclamation threatening indefinite penalties.[3] Talk of stringent action against Catholics was in the air, and, now that parliament was about to meet, the vagueness of the threats might easily be translated into unequivocal statute-law. The government yielded, to the extent of proroguing parliament in order to permit the matter of the new boroughs to be submitted to the judgment of the king. After discussion before James I and his Council in England, the king adjudged the complaints of the Catholic members " preposterous," " except you would have the kingdom of *Ireland* like the kingdom of Heaven." " What is it to you," he asked in his academic manner, " whether I make many or few Boroughs, my council may consider the fitness, if I require it; but what if I made forty Noblemen and Four Hundred Boroughs, the more the merrier, the fewer the better chear."[4] The parliament resumed its sittings

[2] *State Papers, Ireland,* 1611-1614. Cal. pp. 336-7.

[3] B. M. *Landsdowne MSS,* 159, folio 268.

[4] *Hibernia Anglicana.* (Vol. II., p. 26). Richard Cox, 1689. See *An Historical and Critical Review of the Civil Wars in Ireland,* by J. Curry, edited by C. O'Connor, 1810, Book 2, Chapter VII., and pp. 613-4 in appendix.

in October 1614, granted a subsidy of £26,042, and was dissolved in October 1615.

The parliamentary grant was badly needed, as the letters from the Lord Deputy to the English Chancellor of the Exchequer (Sir Julius Caesar) make clear.[5] Sir Arthur Chichester wrote on 1st April 1613 : " Right honorable : The bills to be propounded in parlyament here are now come unto me under the great Seale of that Kingdome,—togeather wth the directions to sommon that great Assembly. I have published the tyme, and sent out the writts. It is to beginne the 18th of Maye wch drawes fast upon us, when all thinges are so out of order, and unprepared, wee live here from hand to mouth, and scarce thinke of to-morrowe, the tyme will require great expence, and wee are altogeather out of monie, if it will please you to be the meanes that wee be supplyed wth the quarterely deue the last of March, and wth this in beinge togeather, you wyll make us all infinitely beholdinge unto you, as you have alreadie much bounde us for the noble care you have had of us, This wylbe no increase of the Kinges Charge, and unlesse that care be had of us manie thinges wylbe wantinge and the service the worse done I praye your honor to beleive that I speake feelingly of the wants, and miserie we live in, wch is like to increase if you helpe us nót in convenient tyme before the parlyament, wch I recommend to your consideration and so remayne . . ."[6] The reply was not helpful and Sir Arthur wrote again on 7th March 1611[7] : " Honorable Sr/ I have received a letter signed by my L. treasorer and your honor dated the 20th of Januarie last directed to Mr. Treasorer and me, In wch you have byne pleased to signefie amongst other matters of monie to be payd ther, and here, that by reason of scarsetie of Treasure in the Exchequer ther, you can not supplye us wth anie grosse some to be sent hyther in specie for this quarter in beinge, and

[5] Th. Ridgeway, the Irish Treasurer, to Sir Julius Caesar. *Landsdowne Papers* B. M. 159, folios 165, 193, 224.

[6] *Landsdowne MSS*, 159, folio 191.

[7] Ibid. Folio 205.

therfore your honors doe direct us to take it upe here, and doe promise repayment ther upon seight of our bylls. . . . First I will endevoure my best to take upe monie here as you have advised and I will drawe the councell to ioyne wth me, but the scarsetie of coyne here is so great (by reason wee have none but that wch comes from thence, wch doth not staye a moneth in anie mans hands here, and what is three score thousand pounds to the trade and commerce of a whole Kingdome) that I doubt I shall not take upe the halfe of what wylbe deue to the armie and servitors here for this quarter and therefore I humbly praye you to thinke of us who lyve for the most part but from hand to mouth." To force the hand of the Chancellor of Exchequer and Treasurer in England, he sent a messenger to London with the bill falling due on 31st March 1611 to get payment, warning them that if it was not met, it would be difficult to get credit in Ireland. The parliamentary grant and the subsequent forced forfeitures were blessings to the government, and long before the next parliament was summoned, the policy of supporting the army by quartering it on the people was adopted.

It has been noticed that Poynings' Act had been amended when it was realised that during the course of a parliament, it might become apparent that legislation ought to be passed which had not been foreseen by the executive authority before the convention of parliament. Having amended the Act, parliament was enabled to suggest to the Lord Lieutenant and Lords Justices any amount of legislation which it was desired to have transmitted to England. Historians have inquired into the origin of the practice by which the Irish parliament initiated legislation in the form of " Heads of Bills." In the parliament held in the reign of James I, the practice had not yet been developed. The earliest method adopted by the Irish parliament seems to have been the appointment of a Select Committee to act in conjunction with a Committee of the Privy Council, nominated for that purpose by the Lord Lieutenant or Lords Justices, to frame legislation for transmission

to the King. For example, in 1614,[8] (November 29th) the Journals of the House of Commons contain the entry : " It is thought fit by the House that the Speaker shall move the Lord Deputy to be pleased to appoint these following viz. . . . to join with such others as his Lordship shall think fit, in drawing up those Acts, as are to be transmitted into *England,* to be propounded in the next Session of Parliament." This Committee was appointed on the last day of the session, and the intention was that it should act during the interval between two sessions. At the opening of the second session (18th April 1615) the Commons sent a request, in the nature of a reminder, to the Lord Deputy, relating to petitions sent up in the first session, dividing the list into three categories : (1) Matters to be provided for by Order of the Deputy and Council; (2) Matters to be dealt with by special favour of the Lord Deputy without any formal act of state; (3) Matters to be provided for by act of parliament to be propounded in the next session. They introduced the list with these words :—

" I. The House of Commons, acknowledging that the sole power and authority to transmit such Bills into *England,* as are to be propounded in Parliament, doth rest in the Lord Deputy and Council, do only desire to be as remembrancers unto his Lordship and the rest, touching the acts following; which they humbly offer as meet to be transmitted, with such other acts, as his Lordship etc. shall think fit to be propounded in the next session."[9]

During this parliament, the executive appears to have co-operated with the legislature, and there is little evidence that Poynings' Act was regarded as a check on the freedom of the House of Commons. One may find in the Journals, under date the 12th May 1615, that the House ordered the Grand Committee (i.e., the House in Committee) to choose members to be presented to the Lord Deputy with a recommendation that they

[8] A parliament was not held in Ireland between 1586 and 1613.

[9] Journals of the House of Commons, 18th April, 1615.

should go to England, after the session, " with such acts and propositions as the House shall desire to be transmitted to *England,* to be propounded the next sessions."

In presenting to the Lord Deputy Chichester answers to grievances of which the House of Lords had complained, the Commons stated in clear language their practice in initiating legislation : " Lastly, where their Lordships seemeth to tax the House of Commons with too much forwardness in propounding Laws to the Royal Assent, without participating with their Lordships, it is far from the judgment of that House to proceed in such manner, being well instructed, and having full knowledge, how far they are limited by the Laws, Statutes and Order of Parliament; and for their proceedings in this kind, they humbly appeal to your Lordship, whether they propounded any Act of Parliament, any further than to have some necessary Bills to consider of, by your Lordship and the Council, and with your approbation, to be transmitted into *England,* then to be allowed or disallowed of afterwards, in both Houses, before they can pass to the Royal Assent."[10]

There was no parliament between the end of 1615 and the summer of 1634, but the difficult financial position and the complaints of the troops whose pay was in arrear, were forcing the hand of the executive, and in the autumn of 1628 the books were consulted, and Poynings' act again brought under review. The Lords Justices wrote to the English Council in September 1628 stating that they found that by Poynings' act, and an act made in 3 and 4 Philip and Mary, a parliament could not be summoned in Ireland until the Lord Lieutenant had certified under the Irish Great Seal the measures they thought should be passed and until they had received an answer under the Great Seal authorising or amending the bills sent. They recommended that this precedent should now be followed by the Irish government and expressed their readiness to advise further in the matter when the course suggested had

[10] Commons Journals, 16th May, 1615.

been taken.[11] Still, nothing was done; and in July 1629 complaint was made by the Irish Council[12] that the Customs were insufficient to support the army, the officers were clamouring for their month's pay overdue since 31st March, and that it was to be feared that the old soldiers would rebel. It was stated that they had already begun to plunder private individuals both in their houses and on the highway. In the same month instructions were sent from London to Dublin to send over the acts which the coming Irish parliament proposed to pass, and certify the opinion of the executive in Dublin upon them. It seems strange, if one does not accept the view that there was constant committee-consultation with the probable parliamentary representatives, that the executive should be asked to send over the bills which the new parliament, for which writs of election had not yet been issued, intended to pass. The Irish Council sent bills on 29th July 1629 stating that they had endeavoured to allay public discontent by promising a parliament and that they enclosed the acts which they proposed to pass, but did not think that these acts would be accepted. A letter from Lord Docwra, a member of the Irish Council, to Lord Dorchester, on 9th February 1630, explains clearly how prior consultation was effected. He stated that the people were anxious that a parliament should be summoned; that Viscount Loftus and Ely (the Irish Lord Chancellor and one of the two Lords Justices who administered the Government of Ireland from 1629 to 1633) had promised a parliament in the midsummer after he entered office, and had asked those who came to a public meeting before the Council to prepare their bills in order that he might transmit them to England.[13] The Council of Ireland, in an endeavour to feel the pulse of the men from whom members of parliament would be drawn, had invited them to come publicly before the Council and had asked those who came to

[11] *State Papers, Ireland*, 9th September, 1628.
[12] Lord Docwra. July 7th, 1629.
[13] *State Papers, Ireland*, 1625-1632. Cal. p. 517.

prepare bills and submit them for consideration. It was an awkward method to satisfy an ill-schemed piece of legislation.

The practice of appointing a Select Committee to consider fresh legislation was continued in the parliaments of Charles I; but direct contact with the executive authority ceased, and the constitution of the Select Committee was so widened as, in effect, to permit of all members of the House to attend and act upon it. The parliament met on 14th July 1634, and the first session lasted less than a month. The Committee appointed (1st August) was of the same kind as those of the parliaments of the previous reign " to attend the Committee of the Councell-board, for that purpose appointed, from time to time, as occasion shall serve, to confer and advise with them of such acts and laws, as shall be thought fit to be transmitted to *England.*" But in the next session, on 11th November, 1634, a Committee was appointed, a week after the opening of the session, to consult with the judges " any morning, at the inns, or in the afternoons, at the Councell-board, when the Councell doth not sit, and there present such Acts for the good of the kingdom, as by them shall be thought fit; and that any of the House may likewise resort thither, and have voice there "; and again, on the second last day of the session, the Committee was enlarged, and instructed to act during the vacation and to report to the House in the following session. What had happened between the appointment of the Committee on 1st August 1634, to act in conjunction with the Committee of the Privy Council, and the appointment on 11th November 1634, of a Committee to consult with the judges, when the Council was not in session? What happened was that Lord Deputy Wentworth, appointed in January 1632, had seen the full significance of Poynings' law and had decided to use the law to its uttermost extent.

Wentworth was the ablest administrator ever sent from England to Ireland. He was not unbiassed before he came in contact with Irish politicians; and on his

journey to Ireland, writing from Chester to Charles I, he already counselled the destruction of the Irish woollen industry in order that the people of Ireland might be made dependent upon England and unable to subsist without maintaining the English connection. His name in Irish economic history is not an honourable one and the methods by which he forced fresh " compositions " from the landowners of Connacht made him contemporarily hated. There is another side to the story which has not been adequately narrated. He was a governor who, having received his master's orders, carried them out in his own way, a way prepared by careful thought and skilful planning and not forsaken when men were pulling and tugging against him and forces in England were making his government of Ireland a task difficult in the extreme. He found the Lords Justices and Council " a Company of Men the most intent upon their own Ends that ever I met with, and so as those speed, they consider other things at a very great Distance."[14] It is a description not inept to apply to the governors of Ireland who preceded Wentworth, but too mild by far to explain the outlook of those who immediately succeeded him.

In January 1634 Wentworth dispatched to London his " Humble Opinion concerning a Parliament in this your Majesty's Kingdom of Ireland." The opening sentence shows his early mastery of the meaning of Poynings' law, " Although the calling of a Parliament in this Kingdom is at noe time of so much Hazard, when nothing is propounded as a Law before it first borrow Motion from your Majesty's immediate Allowance under your Great Seal, as it is in *England,* where there is a Liberty assumed to offer every Thing in their own Time and Order; and this Subordination whereunto they have been led by the wisdom of former Times, is ever to be held as a sacred Prerogative, not to be departed from, in no piece to be broken or infringed . . ."[15] Poynings'

[14] Deputy Wentworth to Lord Treasurer, 3rd August, 1633 (*Letters and Dispatches*, Vol. I., p. 96).

[15] Deputy Wentworth to King, 22nd January, 1634. Vol. I., p. 183. *and Dispatches.*

law was not any longer a machinery for co-operation, but an instrument of subordination. This passage indeed gives the keynote of the subsequent development, dating from 1634, of this legislation.

It was necessary to call a parliament in order to obtain the supplies which Charles I needed so badly. It was decided to hold two sessions, in the first of which supplies would be required and in the second graces, perhaps, granted. Wentworth in his "Advice" suggested the formation of a Committee of the Irish Council to consider the bills which might be transmitted to England. The King authorised the convention of a parliament on the two-sessions arrangement and at the same time sent a private note to Wentworth, 17th April, 1634: " As for that Hidra, take good Heed; for you know, that here I have found it as well cunning as malitious. It is trew, that your grounds are well layed, and, I assure you, that I have a great Trust in your Care and Judgment; yet my Opinion is, that it will not be the worse for my Service, though their Obstinacy make you to break them, for I fear that they have some Ground to demand more than it is fit for me to give."[16] Wentworth took care that the Irish hydra should be so composed that the heads would yapp at each other instead of at him and the King.

It will have been noticed that the Deputy appointed a Committee of the Irish Council to assist him in framing bills. This Committee objected to sending the Bill of Subsidies with blanks for the amounts, but Wentworth persuaded them from their doubts. He was as firm a believer in the prerogatives of royalty as Charles I himself and to all objections had a ready answer, to argue against which would have laid the disputant open to a charge of disloyalty, which of all charges the English-Irishman has at all times regarded as the most heinous. He refused to follow the custom of consulting the lords of the Pale concerning the new parliament. " I silenced it," he says, " by a direct and round Answer, that should we do so, I feared his

[16] *Letters and Dispatches*, Vol. I., p. 233.

Majesty might judge we had exceeded our Direction, opening his Counsels to any but ourselves, without his special Warrant."[17] The King would scornfully reject all foreign instructors between him and his people, and he added that " the calling of Parliaments was the peculiar of Kings, and so locked up in the sacred breast of His Majesty, as it were want of good Manners in me his Servant, to pry into or impart his Counsels further, or by other Degrees, than should in his own good time he revealed unto me ".

Wentworth did not altogether rely upon his Council in Ireland and made one notable omission in laying papers before the Committee on Bills. He had been advised by the Privy Council in England to send over a bill to enable the parliament to initiate legislation and the Deputy to signify the royal assent; in brief, to dissolve the parliament from the restrictions imposed by Poynings' law. He replied: "under favour I took it to be of so dangerous a Consequence as I never durst impart it unto them on this Side; for this would in a manner weaken one of the greatest Stays the King hath upon this People, and open a Way to all the factious Propositions turbulent and unquiet Spirits might think of, whereby to distemper the House: Whereas now they are locked up not to propound any thing before certified and allowed on that Side, and if they grow unruly and importunate in their Proposals, the Deputy hath still to quiet and silence them, with a letting them understand they forget and endanger themselves to discourse of such Matters, whereunto they are not first authorised by His Majesty's Privity and Warrant. A mighty power gotten by the Wisdom of former Kings, and would be imputed to this Age, I fear, as a mighty *lachete* by those that shall succeed, should we now be so improvident as to lose it, and for my own part, so zealous am I for the Prerogatives of my Master, so infinitely in love with this in especial, that my Hand shall never be had as an Instrument of so fatal a Dis-

[17] Letter to Secretary Coke, 13th May, 1634.

service to the Crown, as I judge the remittal or weakening would be ".

The parliament met, as stated, on July 14th, 1634. In the House of Lords on 24th July, 1634, a Committee of Grievances composed of 18 Lords, had been elected " for taking into Consideration such Acts as are fit to be propounded to be past, and such Statutes as are in force, which are fit to be repealed ".[18] But on 28th July the Journals of the House of Lords contain the entry: " It is ordered by the Lord Deputy, that the Lord Chancellor, the Lord Chief Justice of the Common Pleas, the Lord Chief Baron of the Exchequer, Master of the Rolls, and Sir *George Radcliffe,* Knight, or any three of them, with such others of his Majesty's Privy Council as they shall call to their Assistance, shall twice a Week, or oftener as Occasion offers, meet in some convenient Place, for drawing and perusing of such Acts as are necessary to be transmitted into *England,* before the next Session of this Parliament." This in the light of subsequent events, is an ominous entry. The Lords had set up their committee to draft heads of legislation. They had passed over to the Attorney-General and the Solicitor-General, the chief law officers of the Crown, their suggestions and ordered them " with all conveniency, by the Advice of his Majesty's Judges of the several Courts, or the more part of them " to prepare " A Draught of an Act ".[19] Meanwhile the Lord Deputy appointed a committee of his Privy Council to draft legislation. Then, on 1st August, 1634, the House of Lords ordered the Lord Chancellor (their Speaker) to " move the Lord Deputy Tomorrow Morning, that all the Acts drawn up by the Judges, and considered by the Lords of the Committee, and allowed of by this House, may be transmitted into *England,* according to the Statute, and further proceeded in as appertaineth ". The next day, August 2nd, the " Lord Deputy comes into the House, attended as accustomed and ascends the Chair of Estate.

[18] *Journals of the Irish House of Lords,* 24th July, 1634.

[19] On 26th July and again on 30th July, 1634.

" The Lord Chancellor, on his knee, delivers the Lord Deputy the Rule conceived Yesterday touching transmitting into *England* certain Acts drawn by the Judges, and by the Lords of this House considered of.

" The Lord Deputy acquaints the House, that the Lord Chancellor had moved him, as he was directed, touching those Acts and his Lordship said he doubted not but that their Lordships should have satisfaction in the effect of their desires; but for the Manner, his Lordship dissents, inasmuch as their Lordships by an Act of Parliament, made in the time of the Government of Sir *Edward Poynings,* are debarred from penning any Act, and have Power only to move or petition the Lord Deputy and Council, for drawing and transmitting into *England* such Acts as they desired to be passed in the matter. His Lordship assured the House of the best satisfaction he could give, and that therein he would do the Lords what Service lay in him. His Lordship directed the Clerk to take Notice of his Dissent, and to cause an Entry to be made of his protest against it, and of his Claim in Right of the Crown to the drawing of all Bills to be passed in Parliament in this Kingdom."

The legislation which had been intended for use by parliament against the Deputy was now being used by the Lord Deputy against the parliament. Wentworth's protest is printed in the Journals of the House of Lords. In it he recited the Act of 10 Henry VII c.4 and that of 3 and 4 Philip and Mary c.4 and then referred to the appointment on 24th July of a Committee of Grievances " for taking into Consideration of such Acts as are fit to be propounded to be passed, and such Statutes as are in Force, which are fit to be repealed "; and the protest proceeded " All which former Proceedings of their Lordships, we the Lord Deputy, taking into due Consideration, and weighing the same with the said Statutes, although we do not conceive, that the said Lords advisedly or purposely intended to violate or to innovate in any thing, otherwise than by the Statutes are provided; yet for avoiding any Misinterpretation, which, by reason of that manner of proceeding, may in

after-times be made to the intrenchment in the said Acts of Parliament, or His Majesty's Royal Power, whereof we are, and will be always, most tender, in discharge of the Duty we owe to the preservation of His Majesty's Honour, and that the like Mistake in their Lordships' Proceedings may futurely be avoided, We have therefore thought fit, this Day in full Parliament, to protest against that Course held by their Lordships, as not any ways belonging to their Lordships to give Order to the King's learned Council, or any other, for the framing or drawing up any Acts to pass in Parliament, but that the same solely belongs to Us the Lord Deputy and Council. We the Lord Deputy do hereby further declare, that their Lordships have Power only by Remonstrance or Petition to represent to the Lord Deputy, and Council for the time being, such publick Considerations as they shall think fit and good for the Commonwealth, and so submit them to be drawn into Acts, and transmitted into England, or otherwise altered or rejected, according as the Lord Deputy and Council, in their wisdoms, shall judge and hold expedient, and that in such wise as the said Acts of Parliament, in these Cases, have limited and appointed. And we, the said Lord Deputy, do trust their Lordships will take this as a seasonable and necessary admonishment from us, and forbear the like Course hereafter ".

The Lords took this seasonable admonishment with meekness, and appointed a committee " to let his Lordship know, that the Lords of this House never intended to proceed in any thing contrary to the Act of *Poynings*, but only viewed those, which the Judges had drawn by his Lordship's directions, for the better Preparation of that Work "; and the committee reported back " that the Lord Deputy is well satisfied touching their Message ". After that, the Irish House of Lords ceased dealing in bills and, instead, made " petitions " to the Lord Deputy and Lords Justices.

Wentworth, in reporting to England[20] what action he had taken, explained that he had not interfered in the

[20] .. to Coke, 18-8-1634.

initial proceedings of the lords, believing they had no wrong intention, and being unwilling to provoke a controversy until the subsidy bills were passed. On the general question of Poynings' law he wrote : " I am of Opinion, there cannot be any Thing invoked, which in Reason of State, ought to be by his Majesty's Deputy preserved with a more hallowed Care than *Poynings'* Act and which I shall never willingly suffer to be touched or blemished, more than my right Eye."

Having secured the six subsidies for the King amounting to £300,000, and withheld the Graces, and refused to stop his notorious " Enquiry into Defective Titles " (at which the Catholic party in the Commons " lost all Temper, and brake forth into such a froward Sullenness as was strange "[21]), a second parliament was not needed till further financial aid was required in 1640. Wentworth was created Earl of Strafford and Lord Lieutenant of Ireland in June 1640, honours he had previously pressed the King to grant him. The second parliament met on 16 March 1640, and granted four subsidies.

In this second parliament of Charles I's reign, the old procedure was adopted by the House of Commons of appointing a committee; but they were now empowered " to call to their advice and assistance any lawyers, either of the Common Law or Civil Law, that be in or near the Town, and likewise any Merchant or Merchants, or other Persons, though not members of the House, as they shall have occasion to confer with, from Time to Time ". Under the Wentworth regime, co-operation with His Majesty's judges had become impossible.

Up to this time there is no evidence of the practice of debating Heads of Bills in parliament; but the evolution, from the ancient time until Wentworth had intervened, had been clearly towards that later development. At 1634 the stage had been reached of having proposals for legislation debated in a Committee of Parliament

[21].. to Lord Cottington, 22-8-1634.

which, while it was not a Committee of the whole House, was open to every member of the House.

Poynings' Act was passed to protect the legislature against a tyrannical and disloyal Lord Lieutenant. Wentworth was tyrannical; but he was loyal to his King. The Irish parliament had now become aware that it needed protection against such a governor. If the King and the parliament were agreed upon state policy, Poynings' act should now have proved its worth; but Charles I was not strongly in favour of parliaments in Ireland or elsewhere. In England he was moving and being moved towards the eventual tragedy of civil war. His lieutenant in Ireland was regarded with particular disfavour by the parliamentarians in England, and in the spring of 1640, when the Irish Parliament had been prorogued, Strafford was ordered to come to England. His health was indifferent and the King wrote to him advising him not to travel unless he felt his health would bear the strain of the journey. In November 1640 he was impeached in the parliament of England and committed by his peers in the House of Lords to the custody of Black Rod and then to the Tower. In May 1641 he was beheaded. Three weeks before, King Charles I wrote to him :—" Strafford, the Misfortune that is falen upon you by the strange Mistaking and Conjuncture of thease Tymes being such that I must lay by the Thought of imploing you hereafter in my Affaires; yet I cannot satisfie myself in Honnor or Conscience, without asseuring you (now in the midest of your Trobles) that, upon the Word of a King, you shall not suffer in Lyfe, Honnor, or Fortune : This is but Justice, and therefore a verie meane Rewarde from a Maister, to so faithefull, and able a Servant, as you have showed yourselfe to bee; yet it is as much, as I conceave the present Tymes will permit."[22]

There is an enlightening illustration, in the proceedings of the House of Lords, of the importance which Poynings' act had assumed at this time. It was " King Charles's head " to the Irish government and parlia-

[22].. 23 April, 1641, Vol. 2, p. 416. *Letters and Dispatches.*

ment. On a motion for the impeachment of the Lord Chancellor (Sir Richard Bolton), the Bishop of Derry (Dr. John Bramhall) and Sir Gerald Lowther (Chief Justice of the Common Pleas), all members of the Irish Council, the plea was submitted that by the acts 10 Henry VII, chapter 4, and 3 and 4 Philip and Mary, ch. 4, such a proceeding as an impeachment of a member of the government was a trespass upon the King's prerogative. To this Lord Lambert replied that if Poynings' act bore this interpretation, the Irish parliament had no power to do anything except to pass bills, and hardly deserved the name of a parliament.[23]

On 11 November 1640, agents of the Irish parliament were chosen to go to England there to lay before King Charles the grievances which arose from Strafford's administration. It is of interest to note that in the " Instructions for the Committee, or Agents, employed by this House in *England,*" entered in the Commons Journal under date 30 January 1641, the first is " To move his Majesty for the passing of a bill, for the further explanation of Poynings' Act, in such parts thereof, whereon any doubt may be raised for the manner of certifying of bills from hence into *England,* and returning them again hither, or any other matter concerning the further explanation of the said act, which they shall think fit "; and the second is " That the House of Commons, during the Parliament, may draw up bills of their own Committee, and transmit them ". The Author of " An Aphorismical Discovery of Treasonable Faction "[24] says that these parliamentary agents were sent to England to have Poynings' act " putt out of the fyle of records "; that they were promised redress by the King; and that they " arrivinge safe to Dublin shewed theire letters of grace, signed and sealed by his majestie, to be inacted in the parliament of Irelande, without any dependencie of England "; but that the Lords Justices, jealous lest Poynings' law should be

[23] ..Carte. *Life of James, Duke of Ormonde,* p. 130.

[24] ..edited by Sir John T. Gilbert, under the title *Contemporary History of Affairs in Ireland,* 1641-1652 (Dublin, 1879).

repealed, prorogued the parliament and so saved their own position. The " Remonstrance," addressed and carried to the King, was made available to the House of Commons in England, and was used by Pym and his colleagues in the subsequent impeachment of Strafford; not indeed that Pym or Hampden cared any more for the independence of the parliament of Ireland than Strafford the royalist, or Cromwell, the republican.

It may be said that the administration of Wentworth witnessed the beginning of the struggle of the Irish parliament against the legislation passed during the administration of Poynings: the Lord Lieutenant was obnoxious to the parliament; but, worse still, the Privy Council had become antagonistic, and had now learnt how Poynings' act might be used to hamper the parliament. Consequently at the first opportunity which presented itself, the claim to have Poynings' law " explained " was placed at the head of the memorial presented to the King. Poynings' law as interpreted by Strafford was " unconstitutional ": that is to say, it was contrary to the spirit of those conventions which then composed the British constitution which the Irish parliament regarded as of right its own. Parliament interpreted the law as meaning that the King and his Council in England should be made aware of all proposed legislation in Ireland, whether proposed by the executive or by the legislature. Yet Strafford's interpretation seemed sound in the letter of the law; and it was for this reason desired to explain the original statute so that the Irish parliament might be able to bring to the notice of the King bills which it desired to have enacted, even though the Irish executive were opposed to them.

The Committee of the Irish parliament presented to the King in Council on 17 May, 1641, a Memorial concerning Poynings' law in which they asked that bills sent to England before the meeting of parliament should be prepared " with the privity and advice of some of the Lords and principal gentlemen of every province of that realm, as the usual practice there was

before the Earl of Strafford's time ".[25] Here is direct evidence of the manner in which Poynings' law was operated up to 1634. The Lord Deputy and his Council consulted the leading lords and gentlemen, the latter having already been selected by the Commons in a previous session, before sending bills to the King and Privy Council in England.

With regard to bills transmitted during a parliamentary session, the memorialists prayed that these should be prepared by the Deputy in Council jointly with the parliament of Ireland. In this way, agreement would be reached between the legislative estates and bills would not be rejected on the wholesale scale of the previous session when not a single bill was passed by the Commons.

This memorial was sent because satisfaction could not be obtained from the administration. On February 18th, 1641, the House of Commons had made an order appointing a Committee " to see the bills, already drawn up, to be transmitted into *England,* and to be humble suitors to the Lords Justices to that purpose." On March 5th, 1641, an order was made " that the under-named persons shall be added to the former Committee, appointed for the advising and propounding of bills touching the good of the Common-wealth of this Kingdom; which said Committee are to present such bills, as they have or shall draw up, unto His Majesty's Attorney and Solicitor and with them to advise and consider; and, after preparing of the same, humbly to present them to the right honourable the Lords Justices and Councel, and supplicate their Lordships for transmitting of the same bills into *England.*" The Lords Justices did not respond.

The interpretation of 10 Henry VII c.4, as amended, given in the Memorial on behalf of the Irish Parliament, is the interpretation which had been used prior to Strafford's administration. " The sole scope of Poynings' Act is that his Majesty and the Council of England be acquainted with the contents of such

[25] *State Papers, Ireland,* 1633-1647. Cal., p. 286.

statutes as shall pass in Ireland, thereby to prevent the sinister practice of former Governors there, who procured several bills to be passed there for laws without the privity of the King, which were pernicious and prejudicial to that Crown and people; and the intention of Poynings' Law was not to exclude the subject from the knowledge and advice of drawing the said Bills, as of late the practice hath been, in regard the said Poynings' Act passed in Ireland at the earnest and only suit of the subject ".

The suggestion of the parliament was that Poynings' law should be further explained, in order to prevent Strafford's interpretation from causing a permanent disablement of the legislative initiative of the Irish parliament. They asked that bills prepared by the parliament should be transmitted to England, whether the Irish Council approved or disapproved of their content; but that the right of criticising them and advising the King should be reserved to the Irish Council.

This was a fair request; but the Lords Justices were now aware of the great potentialities of the new interpretation; and they opposed the proposals of the parliament. In May 1641 they wrote[26] drawing attention to the Irish act 3 & 4 Philip and Mary c. 4 which provided that the Lord Lieutenant or his Deputy should report to " the Government of London " on the matters meet for legislation in Ireland, adding that they had fulfilled this Act " to the letter ".

The answer of the King in Council to the grievances of the Irish parliament was given on 16 July, 1641.[27] Regarding Poynings' law, the Lords of the Council, after much debate with the committees, did not think fit to recommend his majesty to grant their request. There was no longer any doubt about the new Poynings' legislation; it was to give ascendency to the English government over the parliament of Ireland. From 1641 the Irish parliament fought against this ascendency,

[26] 8 May, 1641. Lords Justices and Council to Secretary Vane. *State Papers Ireland.*

[27] *State Papers, Ireland,* 1633-1647. Cal., pp. 317-322.

against the Lord Deputy and Irish Council, and the King in Council and the English parliament. The struggle was, unfortunately for the Irish parliament, not continuous; it ceased for a time; but in the long run the victory lay with it. The interest of the struggle lies in this: that a colony of Englishmen, planted in a hostile country, finding it essential to adopt every expedient to retain a strong loyalty to England, and to transmit this loyalty as a tradition to their descendants, with every material incentive to uphold every prerogative of royalty, found themselves urged in an opposite direction by their desire for an independent parliamentary institution; and the urge was strong enough to force them to make all efforts, barely short of armed rebellion, to attain that freedom. It is well known that the Commons in every country has developed along definite lines towards a position of political supremacy. In the Irish parliament, one is able to see how such an institution, in circumstances the most adverse to such a development, grew in power until it broke its bonds and asserted its right to independence of any authority save the simple veto of two other estates, King and Lords. Poynings' act affected the development of parliament in Ireland much as the growth of plants in Japan is affected by an external pressure; it acted like a weight, pulling against the natural growth; the plant proved robust enough to break the tie that bound it; and then it was uprooted and died.

After the Earl of Strafford's recall in 1640, the government of Ireland was conducted by Lord Deputy Wandesworth, and after his death in December 1640, by two Lords Justices. On November 10th, 1640, the House of Commons appointed a Select Committee to meet the Committee of the Privy Council " to know, whether they have transmitted those bills into *England,* that were presented to them from this House; and, if they have not, to give their reasons wherefore they were not done, according to the form they were drawn, and to make report thereof with all expedition they can ". In doing this the Commons seem deliberately to have

ignored Wentworth's protest and to have persisted in their claim to initiate legislation. The Lord Justices did not give satisfaction to this request, and on 25th February, 1641, a deputation was sent from the House of Commons to wait on the Lords Justices " and humbly move their Lordships, that they would be pleased, that those bills, drawn up by a special Committee of this House, and approved of by the House, and presented to the Committee appointed by the Council-Table, since the beginning of this Parliament, may be transmitted into *England;* or else, that the exceptions taken to them, or any of them, may be made known to this House by the Committee appointed by the Board to draw up bills; and the persons under-named are to declare to their Lordships that this House is very sensible, that bills of dangerous consequence to the Subject, and which were rejected the last Parliament, have been brought to this House again this Parliament to be passed, and those bills, which tend to the publick good, have not been transmitted ".

The Lords Justices were in no mood to placate the Commons, and on February 16th, 1641, twenty-one " queries " were propounded by the House of Commons which the House of Lords were asked to require the judges to answer. These queries related to acts of the executive which were part of the ruthless policy begun by Wentworth. For example, the sixteenth asked " By what law are jurors, that give verdict according to their conscience, and are the sole judges of the fact, censured in the Castle-Chamber in great fines, and sometimes pilloried with loss of ears, and bored through the tongue, and marked sometimes in the forehead with a hot iron, and other like infamous punishment "? The observations offered by the Lords on this request of the Commons were not satisfactory, and the House of Commons decided to send the queries to their Committee in England to be placed before the English House of Commons. The formal order, containing the direction to the Agents in England, is of much interest: " It is therefore ordered, that the said questions shall be pre-

sented, with all convenient speed, to the Parliament of *England,* by the Committee of this House now in *England;* and that the said Committee shall signify unto them, that this Nation, being by extraction, alliance, and affection, totally *British* and *English,* and having received their laws from *England,* and being governed by the common laws thereof, to their great comfort, for five hundred years, and finding many violations of the said laws by bad ministers in the fundamental part of the liberty of the Subject, do pray, that the said honourable House may lay down a course, such as in their own wisdom they shall think fit, for declaration of the law in the particulars of the said questions, wherein they will fix a special obligation upon this House, and upon all His Majesty's Subjects of this Kingdom ".[28] The Irish parliament undoubtedly looked upon the parliament at Westminster as a model; but in asking it to decide upon questions of the Common Law, it took a step which cannot be said to have involved any admission of inferiority as a legislature.[29] The Irish Commons had certain grievances against the Irish executive, which represented the King. The English parliament had its own grievances against Charles I. So obvious was the answer to the queries, that the only object the Irish House of Commons could have had in transmitting them to the English parliament was to direct attention to their grievances in the most public manner possible. It was a good piece of propaganda. Nevertheless, there is no doubt that the members of the parliament of Ireland regarded the Common Law of England as that to which of right they were entitled. The Declaration and Protestation of the Lords Spiritual and temporal and Commons in Parliament assembled (24 May 1641) expressed this view in an historical perspective.[30]

[28] *Commons Journals,* 3-3-1641.

[29] Carte ingenuously saw in this "precedent" the origin of the subsequent English legislation passed for Ireland. (*Life of Ormonde,* p. 115.)

[30] "Whereas in the reign of King *Henry II.*, the common law and lawful customs of England were received, planted, and established in his Majesty's Kingdom of *Ireland;* and then soon after, the said law and lawful customs were established and confirmed in and by several Parliaments, held within this Realm . . . ."; and see the subsequent Declaration of July 26th, 1641: "It is voted upon question, *nullo contradicente,* that the subjects of this his Majesty's Kingdom are a free people, and to be governed only according to the common law of *England,* and statutes made and established by Parliament in this Kingdom of *Ireland,* and according to the lawful custom used in the same."

The parliament had now, goaded no doubt by the excessive severities of Wentworth and the Lords Justices, declared war on the procedure which since the reign of Philip and Mary had been regarded as a legal proviso against the risk of a predatory Lord Deputy. In June, 1641, in rejecting, upon first reading, a bill concerning the importation of tobacco, the House of Commons unanimously declared, " And for as much as the said bill was contrived and framed, without the least notice thereof given to this House, and without any privity or suit, the same being of such dangerous consequence, as aforesaid, it is further ordered, that the under-named Committee shall, by all lawful means, discover and find out the contrivers, authors and factors of the said bill, and make report of their doing therein to this House, to the end, that thereupon such course may be taken, as to justice appertaineth ".[31] This again was an obvious propagandist declaration; because the authors and contrivers were well-known to all, and it is difficult to see how any action could have been taken " as to justice appertaineth " since the Bill had been approved of by the executive in Ireland and the King in Council in England. The Committee does not appear to have made any report. At the same time, the order is of interest as indicating that the House of Commons regarded it as a settled practice, which had become almost a right, that before a bill was sent to England its provisions should be disclosed to Parliament. Parliament had an unwritten right to be privy to legislation in the stage when amendments could be made.[32] The practice, as stated, was that the Commons and the Privy Council, both by Committees, jointly prepared and dis-

[31] *Journals,* 17th June, 1641.

[32] "They humbly conceived it likewise to be consistent with the sense of *Poining's* Act, that such bills as were to be transmitted out of Ireland, under the Great Seal, should be drawn up there, after the Parliament met, by the chief governor and Council, with the privity and assistance of both Houses." (Carte. *Life of Ormonde,* p. 142.)

cussed proposals for legislation before they were sent in the form of a bill to England. So long as that practice was continued, parliament saw no necessity to resort to any ruse, such as was later adopted, in order to obtain a share in the preparation of legislation. It was important that parliament should intervene at the stage of the bill before it left Ireland; because once sent to England it was out of the power of parliament to amend the bill. It is easy, then, to recognise the anxiety of the Commons that this practice of consultation and co-operation should be continued. On the day following the protest cited above, other bills were summarily rejected " as matters of bloody and pernicious consequence unto all his Majesty's faithful Subjects of this his Highness's Realm."

In October, 1641, the Rebellion, to the satisfaction of the Irish government,[33] had commenced; in November the House adjourned itself, and the parliament that met in 1642 was an attenuated body, entirely under the influence of the vicious Lords Justices. It met again in 1647 for a brief session. Between then and 1660, no parliament met in Ireland. Thus, the first stage of the evolution of the Irish parliament is definitely marked. What would have happened if parliament had sat continuously is a matter of guess-work; but there are materials from which to work towards a conclusion. After one hundred and fifty years, the legislation of Poynings' parliament was still in operation. From being a convenience it had become a hindrance to the loyal parliament of Ireland. The union of the King and his loyal Irish subjects against an ambitious Lord Deputy had ceased to be a possibility. The grouping of the King and Lord Deputy in opposition to the Irish parliament had become an actual fact during the tenure of the Chief Governorship by Wentworth; and the combination was irresistible. It may, however, reasonably be regarded as an isolated instance. It may be said

[33] Dunlop: *Ireland under the Commonwealth, I., CXXII.; Historical Memoirs of the Irish Rebellion in the Year* 1641. Extracted from Parliamentary Journals, State Acts and the most Eminent Protestant Historians, London, 1767 (Preface, p. xii). Carte, *Life of Ormonde*, Vol. I., p. 227.

that, if Irish parliaments had been suffered to sit, if the country had not been wasted by war, the executive and legislature would, by a mutual accommodation, have enjoyed freedom from disputes, and have found the ancient legislation to be neither a weapon in the hands of one nor a scourge on the back of the other. The instances in which the two powers co-operated are more numerous than those in which parliament was forced to adopt a threatening attitude; and the co-operation was continuous until Wentworth came. It is most likely that parliament would have used its " one good trick " to defeat the executive if a series of Wentworths had acted as Chief Governors in Ireland. The financial control which was at this period in the hands of parliament was not great, but in less than a generation it would, granted peace in the country, have enabled parliament to repeal the acts of Henry VII and of Philip and Mary.

The Irish parliament at 1641 had experienced the inconvenience of the legislation. Until 1661 nothing could have been done, because there was no parliament in Ireland. After 1661 a fresh period begins, not from where the parliament of 1641 left off, but with the Irish parliament in a much weaker position, and much less disposed to assert its right to independence. At a later date, the combination which used Poynings' law as a weapon was again altered, and again parliament was singly opposed to powerful forces. The government in Great Britain, regarding Irish questions, as Lecky says,[34] " almost exclusively in the light of their influence on English politics "; the Lord Lieutenant, not troubling very much as long as he could avoid being troubled; and the Lords Justices in Ireland, were constantly in combination; and in so far as their interests and wishes were opposed to the interests represented by the parliament, Poynings' law was invoked to suppress the voice of parliament. The Lord Justices obtained more and more control of government; the lord lieu-

[34] Lecky: *History of Ireland in the Eighteenth Century*, edn: 1913. Vol. II., p. 107.

tenant became more of a figurehead. Lord Macartney described the relative position of the two in the government of Ireland: "The Lords Justices, by their connections and influence in the House of Commons, did what was usually termed the King's business in parliament, but which in truth, was rather their own, as it enabled them to establish their power, and to domineer, without control in the interior government of the country". "The Lord Lieutenant, who had accepted the government as a dignity, to swell his titles, not to increase his troubles; to add to his dependants, and not to his business; who from inattention was ignorant, and from indolence unwilling to undergo the laborious duties of his station, committed all public affairs to their entire management. His chief object was to leave matters as he found them; and he esteemed himself happy if, after six or seven months' bustle and parade, he met with no insult on quitting Ireland, or censure on arriving in England."[35] It was against such a set ot forces that the Irish parliament, which eventually repealed this legislation, was arrayed.

[35] *Account of Ireland in* 1773 (London, 1773), p. 29.

CHAPTER III

Cromwell's Administration and the Parliament of 1661-1666

The two Lords Justices, Sir William Parsons and Sir John Borlase, saw in a general rebellion a prospect of personal gain, and they determined to rule without the restraining influence of parliament. In December 1641 they wrote to the Lord Lieutenant (the Earl of Leicester) that "these great Counties of *Leinster, Ulster,* and the Pale, now lie the more open to his Majesty's free disposal, and to a general settlement of peace and religion by introducing of *English*".[1] At the same time they were in correspondence with the Speaker of the English House of Commons. Now, as later in 1688, Ireland was a key position in English affairs and the parliament of England feared lest the King might go there and, by raising funds on the confiscated lands, attract to himself a large army. To prevent this, a bill was passed to raise subscriptions up to £1,000,000 on the security of the eventual success of the government in quenching the Irish rebellion and in confiscating some 2,500,000 acres of land in that country. This bill was signed by the king in March 1642, being the first English act clearly designed to carry the force of law in Ireland. In October 1642 the English parliament sent two commissioners to advise the Lords Justices in the government of Ireland. A remnant of the Irish parliament met in June of this year, and passed an order requiring that all members of that and future parliaments should take the Oath of Supremacy; and bills were sent to England for imposing penal laws with great severity. The parliamentary body met again in November, but the bills had not yet been returned from

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London. In this predicament the Lords Justices, who were anxious by the utmost possible severity to effect the ruin of the Catholic estate-owners, arranged that the House of Commons should pass a bill for the suspension of Poynings' law; and in accordance with the act 11 Eliz. sess. 3 cap. 8 they decided that a bill to this effect might be passed " by the more Number of the Lords assembled in Parliament, and the Greater Number of the Commons-House ". The act of Eliz. had referred to a bill; but, as indicated already in chapter I, it was contrary to the act of Henry VII that a bill should originate in the Irish parliament; and for that reason the House of Commons passed " a draught of an Act " to suspend Poynings' act in order that legislation might be speedily enacted to abolish popery and attaint the rebels.[2] When this " draught " reached the Lords, they discovered in it a reference to the Adventurers Act passed in England in the previous spring; and they referred the measure back to the House of Commons on the point whether the mention of the English act in an Irish act would not give an Irish parliamentary sanction to the binding power of English legislation in Ireland. The result of the advice of the second chamber was that the House of Commons decided to proceed no further with the draft. This is one of a few instances in Irish history of the value of a second chamber.

Turn from this picture to look at the assembly of the enforced rebels. The parliament which had met in 1641 had broken into two sections, and one of them, lusting for power and wealth through blood, had stopped suddenly in its fiery legislation lest it might appear to barter its parliamentary rights. The other section, with the addition of gentlemen who were fearfully loyal to the king, met at Kilkenny in October 1642. They formed themselves into an upper and a lower house and proceeded solemnly to declare that they did not regard themselves as constituting a parliament since only the king had authority to summon parliament. They had met to consult about their affairs and they clearly hoped

[2] Carte. *Life of Ormonde*, Vol. I., p. 373.

that when those troublous times had passed they would again have the honour of forming part of the parliament at Dublin. Their claim was for government based on Magna Charta and the common law of England " in all points not contrary to the *Roman* Catholick Religion, or inconsistent with the liberty of *Ireland*".[3] The king opened negotiations with this body and sent a commission to the Marquis of Ormonde empowering him to conduct the proceedings. From the views expressed by this section of the Irish parliament, as I think it may properly be described, Charles I was able to give instructions in advance on the points which they were most likely to raise. These were two.

(1) That the parliament of England had no power to pass legislation binding in Ireland;

(2) That Poynings' act should be repealed or else that the Irish parliament should be allowed to initiate legislation.

The instructions were to give way on the first point, since there was no precedent for an English act binding in Ireland, and even Henry VIII had had all the legislation of the religious changes passed in Ireland; but to be firmly opposed to the second as being contrary to the policy by which Ireland was governed. The commission authorised the Marquis of Ormonde, the Earl of Clanrickard, the Earl of Roscommon, the Viscount Moore, Sir Thomas Lucas, Sir Maurice Eustace, and Mr. Thomas Bourke to negotiate; and these commissioners met Lord Gormanston, Sir Robert Talbot, Sir Lucas Dillon and Mr. John Walsh, the agents for the catholics, on March 17th 1643 at Trim. A " Remonstrance " was delivered to the King's agents containing, as one of the grievances, the passing of an act by the parliament of England purporting to bind Ireland, this being, they said, without precedent since Henry II extended his power to Ireland; and they asked for a free parliament, and for the suspension of Poynings' act during the parliament " as it had been formerly in the

[3] Carte. *Life of Ormonde*, Vol. I., p. 368.

11th of Queen Elizabeth upon occasions of far less moment ".

This is a curious matter. The protestant body in Dublin and the catholic body at Trim were united in repelling the English legislation. This may have been, wholly on the part of the catholics, partly on the part of the protestants, because the Adventurers Act would have resulted in Irish estates passing to the subscribers of the speculative loan. The protestant body wanted to have Poynings' act suspended, in order to be free to rush legislation against " popery "; but their desire for anti-catholic legislation was not as strong as their dislike of the interference in legislation of the parliament of England. The catholic assembly wanted to have Poynings' act suspended, probably feeling that their case was strong enough in justice to enable them to get a respectable instalment of right from an Irish parliament, even though they should be in a minority there. There is no doubt that if Irish affairs had been left entirely in Irish hands, without the haunting whisper of an appeal to an English authority, Anglo-Irish relations in that and later ages would have been different in a revolutionary degree—without revolutions; and it is here not easy to avoid pointing a moral suitable in our own age.

After much discussion and disagreement on vital matters, the negotiations between Ormonde and the Confederate Irish (as they are usually called in Irish histories) turned from the important points which, even in his extremity of fate, the King was not prepared or advised to concede, and the aim became merely to procure a cessation of arms for one year. The terms of the cessation were settled and on September 15th 1643 the year's truce began.

Naturally the year of peace was used to endeavour to reach a definitive settlement and for this purpose the " Confederate Irish " sent their agents to Oxford to place their proposals before the King. Their requirements were freedom of religion, of parliament and of property. They wanted a parliament to which no person who was neither a resident nor an estate owner should be eligible for election. They wanted a statutory declaration that the parliament of Ireland was independent of the parliament of England, though whether the statute was to be of the Irish or the English parliament or of both is not clear. They again pressed for the suspension, during the sessions of the hoped-for parliament, of Poynings' act so that the mixed and disputed legislation passed since October 1641 in the English parliament and in the remnant of the Irish parliament might readily be repealed and a fresh start made. These were the main demands relating to parliament.

The King consented that a new parliament should be summoned provided that, in accordance with Poynings' act, the heads of legislation should be previously sent for approval to England, as he could not agree to a suspension of that act; and provided that no attempt should be made during the course of the parliament to introduce any bills not covered by those approved by the King in Council in England.

Having proceeded so far, the truce was renewed and negotiations began again between Ormonde and the Irish. Again the demand for a suspension of Poynings' act was strongly urged, and this time the Lord Lieutenant evaded the issue by pointing out that according to 11 Elizabeth c. 8 he could not certify to England a bill for the suspension of Poynings' act unless it had been first agreed by a majority of both houses of the Irish parliament and this procedure would be no more expeditious than sending the bills to England before parliament met. As the bills would be agreed upon and defined in the Articles for a Treaty, they could not be altered in England without a breach of the treaty. Met on this point the agents of the assembly pressed for an act asserting the independence of the parliament of Ireland. To this the obvious answer was made that an Irish act would not be binding in England. They do not seem to have asked for an English act and the point was not further pressed. They eventually broke

on two issues—that of the penal laws, and that of Poynings' law (though they asked only for a suspension of its provisions during the sessions of the projected new parliament). When Charles I heard this disappointing result, he at once authorised Ormonde to go to extreme lengths to conclude a treaty, giving him a free hand; but telling him that the repeal of the penal statutes could not be entertained as part of the article, and that the point about the suspension of Poynings' law was to be fought but conceded if no alternative to a complete breakdown of the negotiations was found.

It was the spring of 1645 by the time this position had been reached. The Irish agents, on the renewal of negotiations, offered to forego their demand for the suspension of Poynings' act if half the government posts were reserved, in future, for Catholics. This was refused point blank. In March 1646 a treaty was signed, but events in England soon made it a worthless instrument and the Lord Lieutenant, Ormonde, was forced in the following year (June 1647) to surrender his sword of state, and his charge, to the parliamentarians. He returned in September 1648 to lead the Irish catholic loyalists against the parliamentarians. Carte says "Proposals had been sent from some *London* merchants, whose affections and abilities had been fully proved on former occasions, that if *Dublin* were taken, they would transport themselves and their effects amounting to the value of £30,000 into *Ireland,* and carry on their commerce in that country."[4] But Cromwell landed in Ireland in July, 1649, bringing more money to the country than the London merchants, in their great zeal for Ireland, had promised. He was accompanied by 8,000 foot, and 4,000 horse and cannon.

A new settlement of Ireland was made by Oliver Cromwell. It was the main purpose of the Restoration parliament which met in Dublin on May 8th, 1661, to secure confirmation of that settlement. It would be easy, ignoring the unsettled feelings of the new landowners in parliament and their constituents, to form

[4] Carte. *Life of Ormonde,* Vol. II., p. 169.

an uncharitable judgment of their actions. It is fair to say that until they had secured to themselves their possessions by a vast amount of private-bill legislation, they were inclined to be forgetful of their dignity as members of a parliament and careless of the effect of their actions on future Irish parliaments. For about five years, the parliament was engaged in looking after the interests of the new adventurers and in securing personal privileges. At the end of that period, it was dissolved, and the next parliament was not summoned to meet until 1692, after an interval of over a quarter of a century.

In re-granting the estates which Cromwell had given to his soldiers, Charles II retained rents which, added to the old Hereditary Revenue, and with the important addition of a new perpetual revenue, enabled him to dispense with a parliament in Ireland. The financial power of the House of Commons was gone from it, until such time as expenditure should exceed the new revenue; and there was, therefore, no compulsion upon the executive to call a parliament. Even if it had done so, the ultimate power on which the parliament could to some extent have relied in the past, and which, later, enabled it to assert its independence, was no longer available, and their protests would, therefore, have been unavailing.

Cromwell landed in Ireland on 6 July 1649 and departed in May 1650, leaving Henry Ireton, Deputy Governor General of Ireland, the task of completing the subjection of the country. Cromwell remained Lieutenant-General and General Governor of Ireland. Towards the end of 1650, the government was placed on a less despotic basis, and four Commissioners of the Parliament (of the Commonwealth) for the affairs of Ireland were appointed, with powers and duties similar to those of the former Lords Justices. Instructions for the guidance of the Commissioners were issued in October 1650, and they were ordered by these and by subsequent instructions of August 1652 to report frequently to the parliament or Council of State in Eng-

land " to the end fitting means may be used for removing of impediments and supply of power as there shall be occasion."[5]

Under the Commissioners, Ireland was divided into six administrative areas: Dublin, Waterford, Cork, Clonmel, Kilkenny, and Ulster; and in each were appointed a military governor and a body of revenue commissioners. Taxes were imposed, by the parliament at Westminster, on the administrative areas as broad units of assessment.[6] The Irish war was costly, and the administration seems to have been considerably hampered by shortage of supplies. Somewhat less than half the entire cost of the war was defrayed by England. At the same time Ireland was made to pay as never before. From July 1649 to November 1656 the aggregate expenditure was £3,485,171, practically entirely on the army; while the revenue raised in Ireland amounted to £1,942,548 (£632,852 from the hereditary revenue, and £1,309,696 from special assessments); and funds sent from England by the Treasurer-at-war amounted to £1,566,849. In the year 1655-56 the total civil revenue amounted to £97,431, and the special assessments yielded £179,671. The total revenue received in Ireland amounted to £277,102. The expenditure was:—

Military	£178,482
Civil	£97,924
Total	£276,406

The average annual expenditure applied out of Irish receipts during the period of the Commonwealth was £255,000, which is an immense sum both in comparison with the taxation of previous periods and in the light of the ruined condition of the country.

This is not to count the charges laid on the people as "month's means" for the regiments of soldiers; nor the fines levied on non-militants for the attacks of the armed bodies. In 1654 (11th February) a proclamation

[5] Dunlop *Ireland under the Commonwealth* II., 4.

[6] Orders of 25-12-1650, etc. Dunlop II., pp. 60, 114, 127, 195, 274.

was issued by the government stopping the payment of compensation by fines as from May 1653.[7] The method of " reprisal " was adopted, and when an attack was made in a district " four persons of the neighbourhood, of the Irish nation and Popish religion, were to be taken, and after twenty-eight days transported to the English plantations in America, if the criminals were not previously made amenable."[8]

In the Instructions to the Commissioners, they were ordered to examine into the working of the treasury of Ireland and the duties of the officials, and it was suggested that the ancient system could be simplified by having " one Grand Treasury." From the wording of the Instructions it would appear as if the Council in England wished to have the Superior and Inferior parts of the Exchequer re-modelled, and responsibility for the receipt and accounting of public funds centred in one official. It was not, however, until 1654 when Fleetwood had been given the revived position of Lord Deputy, and an Advisory Council, like the old Privy Council, had been appointed, that any action on these lines was taken.

The Instrument of Government, passed by the Parliament in December 1653, by which Cromwell became Lord Protector of the Commonwealth of England, Scotland and Ireland, provided (Article IX) that Ireland should be represented in the Commonwealth parliament of 460 members by 30 members. Writing in May 1654 to the Irish governor (Fleetwood, who succeeded Ireton on the latter's death), Cromwell pointed out that the Instrument did not define the Irish constituencies, but left this detail to the Lord Protector acting by the advice of his Council. He asked for the opinion of the Irish commissioners, whether there were any parts of Ireland then capable of electing members, or whether,

[7] Prendergast. *The Cromwellian Settlement of Ireland* (1870, 2nd edition), p. 338. Prendergast re-discovered the *Books of the Commissioners for the Affairs of Ireland*, and the Domestic Correspondence and Books of Establishments from 1650 to 1659, in the Record Tower, Dublin Castle; and his account of the Cromwellian period in Irish history, derived from these, is a reliable source of information.

[8] Ibid, p. 338.

in the existing condition of the country, it would not be better to choose the members and summon them to parliament without any election.[9] The commissioners replied on 19th May in an interesting letter as follows: "In obedience to your commands, signified by your late letter concerning the elections of persons in this nation to serve in the next ensuing Parliament, we have considered of the present condition of this desolate country, wherein several counties lie totally waste and uninhabited, and in other counties the inhabitants not yet in any settled condition, which we doubt not is well known to your Highness. In which respect we cannot satisfy ourselves, as the present state of affairs here do stand, to present any particular way and course for such elections at this time".[10] There were no elections, and thirty Irish members were summoned by writ to attend the parliament which met in 1654. This parliament was dissolved without passing any legislation. The same course of choice of members was followed in 1656 when Cromwell's second parliament met.

Meanwhile a change had been made in the government of Ireland. In August 1654, an Irish Council composed of six persons was appointed and the government was placed in the hands of a Lord Deputy (Fleetwood) and his Council, thus reverting to the old system of the Tudors and Stuarts. Under this government, important changes were made in the revenue administration. An Order was issued on 17th November, 1654, appointing three persons to be Commissioners-General of the Assessments and all other public revenues of Ireland. At the same time a Receiver-General of the Revenue was appointed by an Order in which reference is made to the wastefulness and inefficiency of the ancient system of the Exchequer: "Whereas it is necessary that the public Revenue of the nation and every part thereof belonging to the Commonwealth, raised for maintenance of the Army, and other public uses, be brought into one receipt or treasury, to the

[9] Cromwell to Fleetwood 9 May, 1654. Dunlop II., 424.
[10] Dunlop II., 427-8.

end the multiplicities of treasuries and receipts which have been proved inconvenient may be avoided, and the persons who shall be employed in receiving and issuing the same, brought to a due account from time to time and the true state of the said treasury be always within the view of such as shall be entrusted with the chief government of this nation . . ."[11] The offices of Baron of the Exchequer and Chancellor of the Exchequer were continued as well as the Auditor-General's. Commissioners for determining Accounts (nineteen in number) were appointed in October 1656. To judge from the numerous commissions of inquiry into the Irish revenue, the system did not work to perfection; but the best devised system would have failed under the strain of the war.

After Cromwell's death in 1658, when the remnant of the Rump parliament re-assembled, the system of government by commissioners was reverted to. On June 7, 1659, it was "Resolved and declared by the Parliament that the administration of the Government of Ireland shall be by Commissioners nominated and authorised by the Parliament, and not by any one person".[12] Colonel Henry Cromwell, who was at that time Lord Deputy, was recalled to England, and ordered to give to Parliament an account of the state of Ireland. By an act passed 7 July 1659, five commissioners were appointed by parliament to administer the government of Ireland.

The action of Richard Cromwell in retiring from the government of the Commonwealth and the subsequent events in England leading to the restoration of Charles II had their natural repercussions in Ireland. The army chiefs were not slow to turn their swords into something more remunerative than ploughshares and they met in convention, published a declaration for "a full and free parliament", expressed their abhorrence of the murder of Charles I, appointed agents to wait on Charles's son, proclaimed King Charles II, granted

[11] Dunlop II., 460.
[12] Dunlop, II., 696.

him a gift of £20,000, with smaller amounts to the Dukes of York and Gloucester, and all this in the space of a month. The agents appointed were to present to the new King " the desires of the nation ", amplified into a request to have a parliament consisting of protestant peers and commoners " and in order thereto, to appoint a chief Governor and Council for the transmission of Bills to the King and Council in England." They also sent agents to the parliament at Westminster with stories of outrages on the part of the natives, and the agents were " to see that nothing was done there to the prejudice of the Adventurers or Soldiers, or towards qualifying the Irish for recovering possession of their estates."[13] Meanwhile, the Irish who had been turned out of their homes and herded to parts of the province of Connacht at once thought of re-crossing the Shannon and returning to their old homes. The Irish soldiers who had fought for the King against the Parliamentarians and had subsequently exiled themselves looked to the King to re-settle them in their estates. Prendergast describes how they " crowded to Whitehall," " to use their influence at Court to obtain the King's order under Privy Seal for their repossession."[14]

A Proclamation was issued by the Lord Lieutenant and Council " commanding all Persons who have been transplanted to, and have departed from, the Province of Connaught, and County of Clare, to return back to the same places to which they were respectively transplanted ";[15] and ordering " all Irish Rebels . . . to be forthwith apprehended, and proceeded legally against as Rebels and Traitors," and confirming their lands to the soldiers and adventurers until such time as parliament should make a definitive settlement. In the final months of 1660 three Lords Justices were sworn into office and the government of Ireland was thus placed on its old basis.

In May 1661, the Irish parliament met, opening its

[13] ..Carte. *Life of Ormonde*, Vol. II., p. 204.

[14] ..*Ireland from the Restoration to the Revolution*, 1660 to 1690, John P. Prendergast, 1887, p. 2.

[15] Plowden, *History*, p. 430.

proceedings by reading a bill " of most joyful recognition of his Majesty's undoubted title to the Crown of Ireland."

The parliament of 1661-1666 was a mortar in which the old Irish were pounded to atoms. The Catholics who had supported the Stuarts against Cromwell deserved better than to be excluded from the general indemnity and to suffer the loss of their estates. It is not the purpose here to discuss the Acts of Settlement and of Explanation. The Settlement was a raffle in which the Irish held no tickets. The scramble for forfeited property was invested by the Acts of Settlement with the sanction of law; but the whole atmosphere of the parliament of 1661-1666 was unfavourable to any display of statesmanship. The " hungry courtiers, interested bigots, and mercenary turncoats, who played into each other's hands, for the undisguised purposes of rewarding treason, defeating merit, and imposing upon base credulity and ingratitude,"[16] were not the kind of men to weigh the national advantage against their private interests. For such as they, parliamentary perspective was difficult. Even Petty, who could foresee the direction in which London would move in the 20th century (" Of Taxes and Contributions," p. 27) wisely remarked that in Ireland " perpetuity itself is but forty years long, as within which time some ugly disturbance hath hitherto happened almost ever since the first coming of the English hither " (ibid, pp. 32-33 introd).

The parliament met on May 8, 1661, and was dissolved on August 7, 1666. It had ten sessions, some of which lasted only one day. Before parliament met, instructions had been sent by the English Council to the Lords Justices, in 1660, in one of which they were ordered to draft such bills, with the advice of the Irish Privy Council, as they considered to be for the public good, and to submit them for approval according to the text of Poynings' law. In the first session, on June 8, 1661, the House resolved to consider in Grand Committee " the Manner and Method of preparing and drawing

[16] App. 23rd Report Irish P.R.O.

of Bills, in order to the Transmission of them to *England,* according to *Poynings'* Act," but there is no evidence that the discussion took place. On 5 July, 1661, " Whereas this House doth not find, that there is at present any committee of the Council appointed for the preparing of Bills to be transmitted into *England,* whereunto a Committee of this House may resort, as in former Parliaments hath been used ", a Committee was appointed to ask the Lords Justices "to permit a Special Committee of the House to view such bills as were ready or were in course of preparation for transmission to England," and also to desire their Lordships, " that a Committee of the Council may be for the Time to come, by their Lordships nominated to sit at certain Times, and at a certain Place, by their Lordships to be appointed, as formerly hath been used ". The House was prorogued on 31st July, 1661 and nothing further is reported. The desire of the parliament to act in co-operation with the Lords Justices and Privy Council is evident; and the " practice " to which they referred as a settled one, shows the manner in which, under Poynings' law, the two branches assisted in framing legislation at the only stage when either could have had any voice in framing it. It was not in the interest of the Lords Justices that their legislative proposals should be rejected at a later stage by the Commons; and who will say that the parliamentary practice of legislating by committee, the committee being open to all members who cared to " have a voice ", was likely to have been then less efficient than the present method of legislating by means of a disciplined human vote-recording automatic machine? There were only two other sessions of any duration in this parliament, the ninth, which lasted from 17 April, 1662, to 15 April, 1663, and the tenth from 26 October, 1665, to 7 August, 1666.

The English Council seems to have suffered from nervous shocks at the mild proceedings in the parliament relating to Poynings' law. In June 1661, the Secretary of the Council, Sir Edward Nicholas, wrote

to one of the Lords Justices (Eustace, Lord Chancellor of Ireland) praying that nothing might be done to disturb this legislation as that would be an " unimaginable inconvenience ",[17] and a week later he wrote expressing a hope that the Lords Justices would forestall any attempts on the part of the parliament to alter Poynings' act.[18] This was a change from the days of Perrot.

In the ninth session began the practice of the House of Commons of comparing the bills received from England with the " transmisses " which had been sent by the Irish executive to the King. In earlier parliaments one may find isolated instances (*e.g.,* 10th November 1642 and 29th May 1647) of the appointment of committees to peruse the bills transmitted from England. In later parliaments it became the settled procedure to appoint Committees to compare the bills and the transmisses. On 26 August, 1662, " Copies of bills, transmitted out of England, under the broad seal, being sent to the Clerk of this House, attested by the Clerk of the Council, some of them were presented to the House, who thought not fit to give them any reading until they had first advised with precedents, whether the original transmission of Bills out of England, treated upon in Parliaments in this Kingdom, were not to be brought and lodged with the Clerk of the House, before any proceedings were made in Parliament thereupon, which the House conceived was their privilege "; and the Lord Lieutenant returned the reply (28th August 1662) " that this House were very good judges of their own privileges; that he thought it fit they should have those transmissions, and would cause the same to be sent unto them ". In 1692, the Lords adopted the practice of comparing with the Transmiss the bills sent to them.

The tenth session brought out a new facet to this many-sided act of Poynings' parliament. The Bills of Settlement and Explanation were not harsh enough

[17] *State Papers, Ireland,* 1660-1662. Cal. p., 347.
[18] *State Papers, Ireland,* 1660-1662. Cal. p., 353.

to the Irish to please some of the greedier members of parliament; but their efforts to " harden " these bills were foiled in England. In December, 1665, an attempt was made in the House of Commons, as a last resort, to have Poynings' act suspended, as it had been in the reigns of Henry VIII and Elizabeth when similar repressive legislation of a widespread nature was to be passed, but the government was able to prevent this being done, and to enforce acceptance of the bills.

A previous instance of a similar use of the power of the English Council to stop fanatical legislation occurred before this parliament met when the Irish Council sent a bill for imposing an oath disqualifying Catholics. It was stopped in England " as being unseasonable, at a time when his Majesty was endeavouring to reconcile the jarring interests of his subjects in Ireland, and very impolitick to make the most numerous body of men in the kingdom desperate whilst it continued in so unsettled a condition ".[19]

This parliament is noteworthy as showing the development in a more definite shape than heretofore of the practice of legislation in the Irish parliament by means of " Heads of Bills." It would give a wrong impression to say that the initiation of legislation by this means commenced at any certain date. The deduction might reasonably be made that, prior to that date, legislation had not, since Poynings' law, had its origin in the Irish parliament; and this would not be true. What were known as " Heads of a Bill " were drafts, submitted as a basis for discussion, in much the form of a bill, with a difference in the preamble. The preamble to the Heads was " We..... pray that it may

[19] Carte. *Life of Ormonde*, Vol. II., p. 223 (A later instance may be mentioned. In 1699 the House of Commons found that a bill received from England contained a clause empowering the church-wardens to levy two-pence each quarter-year out of every £ rent of land within a three-mile radius of each market-town, for the purpose of poor-relief. One of the members of parliament in a letter describing the discussions wrote, 12th January, 1699: " Tis judged too great a Power to be lodged in them who are generally Papists, so that tis thought this very Clause will be the losse of the Bill "; and writing 17th January, 1699: " this day was appointed to consider of some expedient of representing this matter so as those in England might not think we lay aside the Bill out of any unwillingness to carry on that trade " (i.e., the linen trade) " but upon Acct. of the particular faults in the Bill." (British Museum Addl. MSS. 38151.)

be enacted ". The bill ran " Be it enacted ". But it is necessary to explain the sequential development which led to the practice of passing Heads.

Under Poynings' act, as amended, bills could originate with the executive government in Ireland, and all proposals for legislation must be accepted by that authority and transmitted to the King and his advisers in England. But the restrictive legislation of Poynings' parliament did not, by a strict interpretation, preclude the legislature in Ireland from initiating legislation and moulding it in the early stages of its discussion. The executive (" the Lieutenant, Lord Deputy, Lord Justice, Lords Justices, Chief Governor or Chief Governors of the realm of Ireland for the time being ") was empowered to certify to England all " Considera tions, Causes, Tenours, Provisions and Ordinances " as they should think good to be enacted. This gave the executive an early and an extraordinary veto; but it did not necessarily preclude the parliament from originating, debating and passing to the executive such provisions for legislation as it might desire to have enacted. Again, on a strict interpretation of Poynings' act, as amended, it is not correct to state that legislation originated with the Irish executive. It would have been fully in accord with these acts to have all proposals for legislation originating with the parliament, then considered by the executive and either passed as " fit to be enacted " and sent to England, or else rejected; or else returned to the parliament with suggested amendments. That procedure would have been possible so long as the executive was not antagonistic to parliament; and, leaving out of account the occasions when the two powers of government were so opposed, the procedure of legislation in Ireland from the reign of Henry VII to 1782 when Poynings' act was repealed, was conducted in this spirit, though under slightly different forms.

In the parliament of 1634, there are numerous instances of " Bills " originating in the legislature.[20]

[20] See pp. 77, 85, 96, 97, etc. of Vol. I., *Commons Journals*.

In 1641 the term " rough Draught of a Bill " came into occasional use.[21] In 1652, the words " Bill " and " Act " are indiscriminately used for a legislative proposal which had its rise in the House of Commons (23rd June, 1642, p. 301. Vol. I.)

It was not until the parliament of Charles II that the *term* " Heads of a Bill " came to be generally used; and in 1661 the expressions " Bill ", " Heads of a Bill " and " Draught of a Bill " are used with the same rough meaning, applying to legislation which had not yet reached the stage of having been approved by the executive authority in Ireland. On 30 May, 1661 (p. 399) the Commons " Ordered, that the under-named Persons ..... be appointed a Committee, forthwith to prepare a Bill, whereby it may be enacted," and on 15 June, 1661 (p. 405) the Commons " Ordered, that Mr. *Solicitor-General* and *Robert Shapcote,* Esq., be and are hereby appointed to prepare a Draught of a Bill for etc." In 1663 (p. 649; 10 April, 1643) Heads of a Bill and a Bill are used as having an identical meaning. On 4 September, 1662 (pp. 572-3) the House of Commons appointed a Committee " to prepare a Bill to be presented to this House " for settling certain estates upon one Connaght Mac-Gwyre, grandson of Bryan Mac-Gwyre; and later, on 24 September, 1662, when the " Bill " was presented to the House, it changed its title to " Heads of a Bill " (p. 584, Vol. I), and the correct legal procedure is exemplified in the words of the order of the Commons :—" It is ordered upon Question, that the Heads of a Bill for confirming the Estate of *Bryan Mac-Gwyre* upon his grandson *Connaght Mac-Gwyre,* for his eminent services to his late Majesty, and the Protestant Subjects of this Kingdom, as the same were this Day read in the House, be presented to his Grace the Lord Lieutenant, with the humble Desire of this House, that, in case his Grace and the Council shall approve thereof, they may be put in a Bill to be transmitted into *England,* according to *Poynings'* Law ".

[21] p. 268 (24 July, 1641).

The earliest mention of " Heads of a Bill " in the Lords' Journals is at 16th August, 1662, and if, to the interest of the antiquarian, a date is to be found for the beginning of this parliamentary phrase, the year 1662 is that most clearly indicated.

The point it is desired to make, however, is that the power of the Irish parliament to suggest and initiate legislation was not a later development of a parliament more sturdily independent than its predecessors; but that under Poynings' legislation there was always left scope for the parliament to suggest proposals or drafts or heads for the approval of the Irish Council and transmission by them to England. There seems to have been at no time that strict division referred to by some historians when they relate that legislation was conceived by the executive and that the legislature had a simple power of veto.

As an instance of the view taken by the Irish parliament of its power of framing legislation at this period, it is of interest that on 27 March 1666, a Committee was appointed " who are to peruse the journals of Parliament in the custody of the Clerk of this House, and to make report, whether they find bills, or only heads of bills, most frequently prepared in Parliaments within this Kingdom, since the time of passing Poyning's Law ". I have not been able to trace any report from this Committee.

Again, as evidence of the practice of consultation between the House of Commons and the Privy Council, one of the last acts of this parliament was to appoint a Committee (31 July 1666) to bring to the notice of the Lord Lieutenant some " very useful and beneficial " bills, " and, concerning that the same may in probability lie before his Grace and the Councel, they humbly pray, that either those, or such as his Grace shall think fit, may be transmitted into England, according to Poyning's law; or in case the said Bills do not depend before his Grace, that then this House, upon intimation of so much, will, if his Grace shall be pleased to approve thereof, nominate a Committee, to join with

a Committee of the Councel-board for preparing of bills, according to the tenor and effect aforesaid."

The parliament was dissolved on 7 August, 1666, having passed 55 bills, one of which was rejected by the House of Lords; and 54 received the royal assent. The Commons rejected four bills received from England.

CHAPTER IV

The Public Revenues Before and After 1666

The power of a parliament lies in its control of finance and defence. In the 18th century, defence was the most important activity of government. Ireland had then no great interest in international affairs, except as committed to the foreign policy of Great Britain; but an exceptionally large standing army was at all times maintained in the country, partly as a defence force against the majority of Irishmen, who were not desired to be loyal to the English connection; partly as a contribution towards imperial defence. So long as the revenues of the government were not adequate to maintain the army as well as to pay the civil expenses of government, parliament, through the power of taxation, could exercise an influence over government; but in this domain again, peculiar circumstances arose which took away from the Irish House of Commons over a long course of years the control which otherwise it would have been able to exert.

Financial control is of two kinds; one arises from the right of the parliament to vote, or to neglect to vote, supplies; the other is exercised by an audit of public expenditure to ensure that the funds voted have been spent in accordance with the wishes of parliament. In general, the former control is reached at an earlier date than the latter; and the need for it is felt in all parliamentary institutions a long time before an appropriation of supplies is made or an appropriation audit applied. Suppose a parliament were to be summoned in order to grant a minor and not absolutely essential portion of the total supplies, having no power over the major part of the public revenue, how would its development be likely to be affected? That was precisely the

position of the Irish parliament in its early history; and the result was that in its case greater effort was made to control the government by examining the particular objects of past and present expenditure and expressing its views upon these than to obtain the general power of rendering helpless the executive authority by means of the non-voting of supplies, because the latter control was not within its grasp.

From the year 1666 the Irish Hereditary Revenue was divided into two parts. The " ancient " Hereditary Revenue was that to which the crown was entitled at common law, with the addition of the perpetual tonnage and poundage first granted in the reign of Henry VII. The " new " Hereditary Revenue was derived from taxes authorised in perpetuo by acts of the Irish parliament of 1662-1666. The ancient Hereditary Revenue fell under the following heads :—

(1) Crown Rents arising from reservations made by the Crown in granting leases and perpetuities. The greater part of these was derived from the estates of religious houses confiscated in the reign of Henry VIII and from the confiscation and plantation of six counties in the province of Ulster. " These six counties," says G. E. Howard, " were planted with great judgment by King James the First, on a plan formed by Lord Chancellor Bacon, but much improved by Sir Arthur Chichester, afterwards Baron of Belfast, and Lord Deputy of Ireland, and who might be said to be the real proprietor."[1] There were also ancient rents out of fisheries, markets, fairs and ferries.

(2) Port-corn Rents, which of old had been paid by tenants to the abbeys and monasteries, usually in kind (wheat, oats, etc.) or in service, and which passed to the crown on the dissolution of the monasteries. The amount was insignificant, and until 1763 the rents were given by the crown to the Lord Lieutenant, Lord Chief Justice, Master of the Rolls, Lord Chief Baron of the Exchequer, and the Presidents of Munster and Connaught, as a perquisite of office. The yield was about £400 a year gross, and the officers of state generally farmed out the rents, receiving in the aggregate about £200 a year; but in 1699 an agreement was made between them and the persons liable to pay Port-corn rents by the terms of which a yearly sum of £245 was agreed to be paid.[2]

[1] *Treatise of the Exchequer and Revenue of Ireland*, G. E. Howard, Vol. I., footnote, p. 32.

(3) Composition Rents, which arose from a " composition " made between Queen Elizabeth and the chieftains of Connacht and their tenants, freeing them from " cesses, exactions, cuttings, imposition, purveying, catings, finding or bearing of soldiers," etc., and granting them their titles, in lieu of the previous Irish titles, according to the common law of England, the property descending lineally. In return, the landowners agreed to pay to the crown a yearly rent of ten shillings per " quarter " of land. In the reign of James I errors were discovered in the indentures, and the King ordered a " Commission of Grace " to be held, and the unfortunate property-owners were obliged to make a fresh " composition ". After paying about £200 for the enrolment of their patents, it was " discovered ", towards the end of the reign, that the new patents had not been enrolled in chancery, and they were therefore held to be void and the lands to be vested in the crown; and James I prepared to make a plantation of Connacht, on the lines of the Ulster plan; but he died before the scheme was commenced, and Charles I came to an agreement with the landowners confirming their patents for a consideration of £120,000. The rent of 10s. a quarter was continued and formed part of the Hereditary Revenue. The amount derived from this source was only about £1,000 a year.

(4) Prizage Duties on Wines, an ancient customs duty on imported wines. Originally the tax was paid in kind to the King by prescription, one tun of wine being taken for every nine tuns on board. In 1177 the duty was granted by King Henry II to Theobald, the son of

[2] By King's Letter, dated 20th April, 1763, these rents were transferred to the general revenue of the crown.

Herveius Walter, on his appointment as King's Butler in Ireland. His descendants, the Butlers or Ormondes, were granted the right to take the duties by royal grants in the reigns of Edward III, Phillip and Mary, and Charles II, and the duties had by then become the recognised property of the Ormonde family. In the earlier periods, however, the prizage was not continually so granted. For example, in the reign of Edward I, a case was heard (A.D. 1305) between an importer of wines (Geoffrey de Morton, late Mayor of the City of Dublin) and the Treasurer of the Exchequer (Richard de Bereford) from the report of which it is clear that at that time the prizage was a source of crown revenue. The jury found " that no large ships laden with wine or other merchandise can touch at the port of Dublin until they are partly discharged, whereby, according to a custom which has hitherto prevailed, ships laden with wines were wont to touch at Dalkey and there partly discharge, and the wines so discharged were wont to be conveyed to the city of Dublin in small barks without payment of prizage, and after the discharge, the ships, with the residue of the wines, were wont to touch at Carnau, which is within the precinct of the city, and then the collector of the prizage was wont to take it either of the wines left in the ship or the wines discharged, whether they were in cellars or not; provided that there should be no sale without licence from the collector of prizage."[3]

The practice, until the Union, was that the prizage duties were leased to the government by the Ormonde family, and in the Public Income and Expenditure Accounts can be seen an annual charge for Prizage, being the covenanted rent. After the Union, the Treasury treated with the Earl of Ormonde and Ossory for the purchase from him of the right of prizage and a sum of £216,000 (Irish) or £199,384 12s. 4d. (British) was paid to him in 1811, the duties then becoming vested in the crown. It is a surprising story of an ancient duty. So far as the crown was concerned, the duties yielded

[3] Coram Rege Edw. I., Cal. p. 135.

little if anything after payment of the rent and the cost of collection.

(5) The Lighthouse Duties of 4d. per ton per voyage on the tonnage of all foreign ships trading with Ireland, charged for the support of the lighthouses on the Irish coast.

(6) Alnage Duties, which brought no revenue to the crown because of alienations, but placed patronage in its hands at the expense of the woollen industry.

(7) Casual Revenue from fines, forfeited recognizances, profits of the hanaper (for sealing patents and original writs), waifs and estrays, felons' and fugitives' goods, First Fruits and Twentieth Parts.[4]

(8) Poundage was charged on imports and exports of all kinds, except wines and oils (which paid Tunnage) at the rate of twelve pence in the £ ad valorem. Its origin is obscure, but Petty surmised that originally it was an insurance premium paid to the ruler for protecting goods from seizure by pirates. " And I thought that the proportion of five pound *per cent.* was pitched upon computation, that the merchants before the said undertaking and composition, had usually lost more by piracy; and finally, that the customs had been an insurance upon losses by enemies, as the insurance now usual is of the casualties of sea, wind, weather, and vessel, or altogether; or like the insurance in some countries of houses from fires for a certain small part of their yearly rent." (" Of Taxes and Contributions "; Tracts p. 42). Tunnage was payable on imports of wines and oils at varying rates, with an allowance of ten per cent. for leakage. The yield was about £15,000 a year until 1658, when they were farmed for more than three times that sum.[5]

Although the list is long, the total revenue was small, and at 1660 amounted to no more than from £35,000 to £40,000 per annum. If this ancient Hereditary Revenue had remained the sole hereditary revenue of the crown, there would not have been a cessation of

[4] See pp. 249-250.

[5] Petty: *Political Anotomy of Ireland*, pp. 361-2.

parliamentary government in Ireland from 1666 to 1692; but the rebellion of 1641 and the forfeitures which followed made it possible for the King on his restoration, after the Commonwealth had run its course, to add to it several fresh sources of revenue. Except in regard to one of these, the Irish parliament appears blameworthy. It compromised its existence as a parliament, in return for concessions to the members of estates which had fallen into the settlement pot. Men will do much for a secure existence, and public morality was not high even a century later.

In granting estates, the crown charged a perpetual land rent, and the parliament by the Acts of Settlement (14 and 15 Car. II Sess. 4 c.2) and of Explanation (17 and 18 Car. II Sess. 2 c.2) assented to a scale of rents for each of the four provinces of Ireland, viz. :—

3d.	per	English	acre	for the province of Leinster;
2¼d.	,,	,,	,,	Munster;
2d.	,,	,,	,,	Ulster;
1½d.	,,	,,	,,	Connacht.

These rents were in addition to any existing crown rents payable out of the lands; and the revenue from them eventually settled down to about £50,000 a year. No blame can attach to the Irish parliament for these grants, in perpetuity. They were of a nature similar to the crown rents which arose on the dissolution of the monastic houses and on the plantations. Though they are called rents, and historians assert that Ireland was free from a Land Tax, there seems nothing to distinguish them from such a tax except the cause which led to their imposition or assessment. The Quit-rents increased the Hereditary Revenue from £35,000 to £95,000 a year.

The crown was not satisfied with receiving quit-rents on the grants of estates. Parliament was required to give some other permanent sources of revenue in return for the " settlement ". On January 22nd, 1662, when the Bill of Settlement had not yet been placed before parliament, an order was made by the House of Commons appointing a committee to attend upon the Lords Justices " and acquaint their Lordships, that it is the humble desire of this House, that a bill may be prepared and transmitted into England by their Lordships' directions, for taking away the Court of Wards and Liveries within this Kingdom, and for settling on his Majesty, his Heirs and Successors, in lieu thereof, the customs and excise arising out of the nation, in as ample a manner as the same is granted by Act of Parliament unto his Majesty in England ". The House of Lords signified its assent to this proposal on March 5th, 1662, which was the earliest opportunity after the meeting of parliament in the seventh session. An address was accordingly made to the Lords Justices offering a perpetual customs and excise in lieu of the charges imposed in the Court of Wards and Liveries; and the House of Commons ordered " that it be expressed therein, that the said grant is so made as a compensation for the taking away of the Court of Wards ". The Lords Justices replied on 6th March 1662 that " they had formerly transmitted a bill into England to the same purpose, and were in hopes it would be assented to; and further promised their endeavours in the promotion thereof ". At the same time, parliament granted a temporary customs and excise till 25th March; and sitting again in the eighth session they continued the duties till 25th June 1662. In re-granting it, the Commons exhibited some uneasiness. They were deliberately limiting the duration of the supply, thus using their fiscal power to bargain with the crown; but they altered the money bill and, after the Lords had objected to the alteration, the Commons agreed to accept the bill only because the act was about so soon to expire, and they had not time to debate further " without apparent prejudice to his Majesty in many thousands of pounds." Parliament desired the abolition of the Court of Wards and Liveries,[6] and was prepared to pay for it by granting a perpetual customs and excise. The crown wanted a perpetual customs and

[6] Established in Ireland in 1622.

excise as part of the bargain over the estates, and a further hereditary source of revenue in return for the abolition of the Court of Wards and Liveries; and the crown had its way.

It is of interest to notice that parliamentary sessions were at this time only long enough to enable the necessary taxes to be voted. As soon as the Money Bill was passed, parliament was prorogued: the writ of prorogation being issued and read on the same day as the royal assent was given to the Supply Bills. It was not, therefore, blindly that the parliament eventually gave away its liberty and its fiscal control.

Parliament met again on 17 April 1662 in a session which was to last a year, and in which fiscal decisions were taken which at once increased the permanent revenue of the crown seven times over. Customs and Excise Duties were granted in perpetuity in return for the grants of forfeited lands; and the House of Commons resolved to grant an extra source of revenue, the Hearth-money, in return for the abolition of the Court of Wards. On 8 August, 1662, the Journals contain an entry: "This day divers speeches were made by several Members of this House, expressing his Majesty's great and abundant goodness to this Kingdom, by his freely parting with almost all the great forfeitures devolved to the Crown, and settling and confirming them in such manner, as, by the blessing of God, the peace of this Kingdom will thereby be established and secured, his Majesty's lately taking away the Court of Wards, an antient flower of his Crown, at the supplication of his people, . . . the certain and standing revenue of this Kingdom, according to an exact computation, will not amount by forty-two thousand pounds to answer the present establishment now sent from his Majesty, of the civil and military charge of this Kingdom, and, without a further addition to be made to supply that defect, his Majesty's affairs, and consequently the prosperity of this Kingdom cannot succeed, as is hoped and desired; thereupon it was moved, that consideration might be had thereof, and some course taken for settling upon

his Majesty, his Heirs, and Successors, such a further yearly revenue, as might discharge and answer those certain occasions . . . in order unto which it was proposed, that the late precedent in England was worthy the imitation of this House, where two shillings in the year was paid out of all chimneys, stoves, and hearths, and that, as it would amount to a considerable sum, so it was but little out of each purse, and was found by experience there to be a very equal and just way. The same appearing to be the unanimous opinion and desire of the whole House, it was put to the question, and the ensuing order conceived.

Ordered upon question unanimously, that two shillings out of every chimney, stove, hearth, fire-place or places, throughout this Kingdom, be granted to his Majesty, his Heirs, and Successors, Yearly, for ever."

In presenting the heads of a bill[7] to the Lord Lieutenant the House of Commons explained that they were "very full of the repeated favours received from his Majesty, and the extent of them". Unfortunately for the poor people of Ireland, parliament's fullness expressed itself by a tax which made their cheerless hearths seem still more wretched.

The parliament of Charles II granted to the crown for ever:—

(*a*) the Inland Excise (14 & 15 Car.II.c.8.)

(*b*) the Import Excise (14 & 15 Car.II.c.8.)

(*c*) New Poundage. (14 & 15 Car.II.c.9.)

(*d*) Hearth Tax (14 & 15 Car.II.c.17 and 17 & 18 Car.II.c.18).

(*e*) Ale Licences (14 & 15 Car.II.c.6.)

(*f*) Wine and Strong Water Licences (17 & 18 Car.II.c.19).

(*g*) Alnage Duties (17 & 18 Car.II.c.15).

The Act of Excise (14 & 15 Car.II.c.8) imposed a new tax in Ireland. The Inland Excise was a proper excise

[7] 14 & 15 Cha. II, c. 19. The Court of Wards, etc., was abolished from 23rd October, 1641.

duty, as nowadays understood, upon beer, ale and spirits made in Ireland. Ale and beer paid 2s. 6d. per barrel (32 gallons) if above 6s. per barrel in price wholesale; if under 6s. the charge was only sixpence per barrel. The inland excise on spirits was fourpence per gallon. The Import Excise was an ad valorem customs duty charged on all goods imported into Ireland, with the exception of jewels, bullion, arms and ammunition, and corn. The rates ad valorem were determined by parliament in the act granting the tax, and a Book of Rates was issued for the guidance of collectors and merchants. The import excise was classed as an excise duty because it was paid by the retailer and not by the importer, unless the retailer were also the importer, in which case he paid the duties at the port instead of at his store or shop. Howard gives a very modern explanation of the value of this method of collection : " The excise is doubtless the most economical way of taxing the subject, and renders the commodity cheaper to the consumer; for this obvious reason, that the earlier any tax is paid on a commodity the heavier it falls upon the consumer in the end; because every trader, through whose hand it passes, must have profit, not only upon the commodity, but also upon the tax itself ". The idea was " to bring the duty one stage nearer the consumptioner."[8] But the Revenue Commissioners naturally found it easier to collect the tax, like the ordinary customs duties, at the ports, and they encouraged payment by the importer by granting him special discounts from the legal amount of the duty. Wines were liable to this tax paying according to value; while they were also liable to a customs duty (from the reign of Henry VII) by weight (tunnage).

The new poundage granted to Charles II was an additional tax of five per cent. ad valorem on all goods exported from Ireland by aliens and strangers. It was in addition to the existing duties of Tunnage on imports of oils and wines and of poundage on exports, which

[8] G. E. Howard, *Treatise of the Exchequer and Revenue of Ireland*, footnote p. 63.

dated from the reign of Henry VII (15 Hen. VII c.1). Tunnage was charged on wines and on oils at rates varying from six shillings to ninety-three shillings and fourpence per tun, with an allowance of 10 per cent. for leakage.

The Hearth Tax was a charge of 2s. per annum on every fire hearth or stove. Exemptions were granted by the act to Trinity College; to widows occupying houses of lands of a value not greater than 8s. a year, and not possessing goods or chattels of the value of £4; and to persons living on alms and unable to work. The duty was imposed for the first time in Ireland in the reign of Charles II (14 & 15 Car II, c.17 and 17 and 18 Car II c.18). By the first of these statutes it was payable in half-yearly moieties, and the first instalment was due on Lady Day 1663; the second statute made it payable in one instalment on the 10th of January. By this means one and a-half year's revenue was obtained in one year—a device not lost sight of in England in 1927, and in the Irish Free State in 1928. The Hearth Duty was collected by the Sheriffs. The lists of persons liable were prepared by the Justices of the Peace, and one certified copy sent to the Exchequer, and another to the Clerk of the Peace.

The Ale Licences (14 & 15 Car II c.6) and the Wine and Strong Water Licences (17 & 18 Car II, c.19) were also granted by the parliament of Charles II much to the annoyance of the brewers and distillers. The distillers petitioned parliament while the bill[9] was going through, and they were permitted to attend at the bar of the House; " whereupon the House, having considered thereof, sent out to know, whether the petitioners were ready with their Councel to speak against the said bill, as was desired; but finding, by the return of their messenger, that they were not, they then ordered the clerk to read the said bill the third time."[10]

The Ale Licence Act charged a licence of twenty shil-

[9] " For the better ordering of the selling of wines and aqua-vitae together with all sorts of strong waters by retail."

[10] 6 July, 1666. *Commons Journals.*

lings a year on licensed dealers, only licensed houses being allowed to retail ale and beer. Under the Wine and Strong Water Act, licensed sellers paid according to the revenue assessment, the limits of which were determined by parliament to be for wines forty shillings and forty pounds, and for spirits ten shillings and five pounds outside the city and county of Dublin, and ten shillings and ten pounds in Dublin.

The Alnage Duties have been mentioned as part of the ancient Hereditary Revenue; and again, as granted by the parliament of Charles II. These duties had been allowed to lapse since their introduction in Ireland in the reign of James I; and were re-established by 17 & 18 Car. II c. 15. All woollen cloths, old and new, of Irish manufacture, were required to be weighed and measured by an official, the King's Alnager, to ensure that they were of a certain weight and length and breadth, prescribed by the statute. The Alnager sealed each piece, charging a tax of four-pence and, in addition, a fee of a halfpenny for his own benefit. He also charged a tax on serge, and knitted-wear, amounting to one farthing per four pounds weight. In addition, the Alnager received a fee of two shillings per 25 yards of cloth measured.

The result of these drastic additions to the permanent taxation of the country was that the Hereditary Revenue from being a mere £35,000 a year, became £250,000; and in 1678 King Charles II was able to farm it out at a yearly rent of £300,000. The total civil and military expenditure of the country was about £170,000 per annum, and the King was able to receive a surplus from Ireland amounting to upwards of £100,000 a year.[11] Parliament was not summoned from 1666 until 1692 when the Revolution in England resulted in a fresh final settlement of Ireland.

The practice of leasing to farm the Irish Customs may be traced back to the century following the first conquest of Ireland. Until the reign of Charles I different branches of the customs had been let to farm.

[11] The total revenue of England at this date was about £1,800,000.

The farmers in Ireland were, from the Tudor period, almost always members of the government. The practice was to grant a lease (usually for 21 years) and on the lessee's death before the expiration of the term it passed as an asset to the beneficiaries. In the reign of Elizabeth the customs of the port of Dublin, the subsidies of wines excepted, were granted to Ralphe Grimesdiche, at an annual rent of £147 3s. 4d. (Irish), who by his will bequeathed the lease to his wife, Joane Grimesdiche, who surrendered the lease, probably through inability to conduct the business of collection. A fresh lease was then granted to Thomas Molyneux, the chancellor of the exchequer, for 21 years. For this he paid a fine or premium of £80 Irish, and held the lease for four unexpired years of the old lease at the old rent, but from the expiration of the old lease, an increased rent of £26 13s. 4d. per annum was charged. This lease was assigned by Thomas Molyneux to the second husband of Joane Grimesdiche, Edward Smith, who assigned it to George Grimesdiche, and the surrender of the patent by the last-named is to be found in the Patent Rolls of the reign of James I (5th year).[12] George Grimesdiche obtained a new lease from the same year (1608) for 9 years at a rent of £173 6s. 8d. The customs on wines imported into Ireland were leased in 1617 to Lord Hay, who made a sub-lease of them. The lease was for a period of 41 years at an annual rent of £1,400 (English). The customs, subsidies and cocket of Dundalk were leased for 21 years in the same year for £5 a year. In 1620 the duties on tobacco and tobacco-pipes imported into Ireland were leased for 7 years at £20 per annum.[13]

The government itself does not seem to have been very successful in its direct collection of the customs. In 1607 the Treasurer of Ireland submitted to the Lord High Treasurer of England a statement on the Irish customs in explanation of the poor amount of receipts. "Most of the port-townes in this kingdome do clayme

[12] *Rot. Pat. et Claus. Cancellariae Hibernie Cal.*
[13] *Rot. Pat. (Cal.)*

by Charters (derived from long antiquitye even *from the reigne of Henry the 5th* and confirmed by many successions) *a priveledge, or imunitie from payment of any Customes to the Crowne, the benefitt thereof, being graunted to the townes themselves.* Where, if any thinge be collected by their severall officers, appointed by themselves, to that purpose, it is by vertue of the sayd graunts, converted to the use of their townes, eyther in maintayning of walles, repairing of bridges, fortifications against Rebells, or such other (praetended) expences, as their Charters seeme to allow unto them; By force whereof also, they exempt from payment of any Custome (even to theise forenamed uses) all the freemen of their severall Corporations, And that which is gathered, they leavie onely on straungers, resorting to them: To whome also (as they alledge) they afford all curtesie herein, thereby to invite them to continue their trade and traffique with them. So, that (as if they wholie neglected the use and benefitt of Custome) they remove it wholie from themselves, and remitt a great part thereof to straungers: Of whome that which is collected is carried so closelie (or so confusedlie) no bookes thereof being retourned into the Exchequer here, nor any other meanes heretofore used to give light of their severall receipts, as that they can no farther be charged, then themselves please to acknowledge and confesse. Theise abuses, in most parts of this Realme, have by continuall custome of manie yeares taken so fast rooting in the mindes of a people, by nature tenaces, as in my opinion (which I humbly submitt to your Lordship's censure) will require both time and authority to extirpate, and reduce them to good order. Those other Havens (as this of *Dublin* and that *other of Drogheda*) which yeald a rent to his Ma^tie^ for Custome, as they concurre with others in exempting their freemen from all payments in this kinde, and their private keeping of their bookes of collections, without notice thereof to the Exchequer. So do the Merchants of those sayd townes (by Charter also) challenge and put in use, a priveledge very praeiudiciall

to all forrainers, that bring hether any comodities of use, for this Realme. Which comodities of straungers, so soone as they arrive within their iurisdiction, they seize on, carry to their Guild-hall or Trinitie-Guild, retaine them there fortye daies, and eyther buy them at last, at their owne prices, or retourne them (with tumbling and tossing) so defaced, as doth much hinder the sale of them when they come to their owners againe: Whereby all straungers (not masters of their owne wares for a time) are discoraged from adventure of any such comodities hether, as might by their trade, advaunce his Ma^t's^ Customes."[14]

In 1630, the general customs duties amounted to about £20,000, and were farmed for a rent of £13,000. Wentworth, with Sir George Radcliffe, rented the customs from the crown at a rent of £15,500 plus five-eighths of the surplus over the rent and cost of collection. In 1636 the customs were made to yield about £40,000 and the cost of collection was £3,000. Of the remaining £37,000, £29,000 went to the Irish treasury, £5,350 to Wentworth and £2,650 to Radcliffe.[15]

The revenue from the crown rents had always been assessed and collected by the Court of Exchequer until the first great farm of the entire revenues of Ireland was made by Charles II in 1669.

By Letters Patent dated July 12th, 1669, the King leased to a body of private individuals, eleven in number, until December 1675, the old Hereditary Revenue and the new revenue granted after the Restoration. The Indenture of lease is in three parts.[16] The first grants the revenues from Quit Rents, Hearth Money, and Wine Licences for an annual rent of £91,500 "of lawfull money of *England,* or so much other lawful and currant money of *Ireland* as shall be equivalent to fourscore and eleven thousand and five hundred pounds of lawful English money." The second grant was of

[14] *Lansdowne MSS.*, 156, folio 200, &c.

[15] See letter from Wentworth to the Archbishop of Canterbury, 27 November, 1637. (*Letters & Dispatches*, Vol. 2, pp. 136-139.)

[16] *The State of H. M's. Revenue in Ireland* . . . (1673).

Customs and Import Excise, at a rent of £75,000 per annum; while by the third part of the lease, the Inland Excise and the Ale and Beer Licences were granted for £53,000 per annum. The total rent was, therefore, £219,500. This was reduced to £204,500 by a deed of 3 August, 1669. It was found that the rents were not sufficient to defray the expenses of the Military and Civil Lists, and in 1671 an agreement was made between the King and Richard, Lord Viscount Ranelagh (and eight others, partners with Ranelagh), by the terms of which the Court of Exchequer (Inferior part or Court of Receipt) was handed over to the partners, and the duties connected with the payment of the charge of the Military and Civil Lists were entrusted to them from December 1670 to December 1675. A commission was issued in 1673 (23rd September) appointing Ranelagh and his partners to be " Commissioners for the Managing of His Majesties Treasury and Revenue in Ireland ". They were empowered to execute the offices of the Vice-Treasurer and the Receiver-General of Revenues and of the Treasurer-at-Wars; and were authorised to levy the customary poundage (sixpence) on issues from the Exchequer, paying nineteen shillings and sixpence in the pound to the creditors of the state. The proceeds, which constituted the emoluments of office of the Vice-Treasurer, were directed to be remitted to those who held that position. In return for the powers conferred upon them, the grantees covenanted to pay the King a sum of £80,000 over a period of two years from December 1675.

Two farms were running concurrently. The one, dated 1669, granted the collection of the revenues to eleven persons (John Forth, Alderman of the City of London and his colleagues) while the lease of 1671 handed over to Viscount Ranelagh and partners the expenditure and accounting of the revenue received in the Exchequer. The term of both leases was 25th December, 1675. By the former lease, the farmers were constituted, " as far as the Laws and Statutes of Ireland will permit ", His Majesty's officers for the collection and receipt of these duties, with rights commensurate with those of the official collectors. Authority to see all books and official papers in the Exchequer relating to the farmed duties was given to them. They were empowered to search ships and examine shippers upon oath; were given " full and free use, benefit and disposition, during the continuance of this Demise, of all Custom-houses ", and were appointed Commissioners and Collectors of the Customs and Tunnage and Poundage, and Commissioners and Governors of the Excise, " so far as the Laws shall permit ". The official organisation, of Customers, Comptrollers, Collectors, Searchers, and other officers remained, to assist the farmers in the collection of the revenue.

A third lease of the revenue of Ireland was made, on the expiration of these farms, by indenture dated 8th April 1676, between the King and Sir James Shaen, and ten others. After reciting the Forth grant and the Ranelagh grant, by which an aggregate rent of £284,500 was obtained, the new lease granted, from 26th December 1675, inclusive, to 26th December 1682, exclusive, the revenue from

(*a*) Wine and Strong Water Licences (17 & 18 Car. II, Ch. 19).

(*b*) Beer and Ale Licences (14 & 15 Car. II. Ch. 8).

(*c*) Import Excise (14 & 15 Car. II. Ch. 8).

(*d*) Inland Excise (14 & 15 Car. II, Ch. 8).

(*e*) Hearth Money (14 & 15 Car. II. Ch. 17, 17 & 18 Car. II. Ch. 18).

(*f*) Quit Rents (14 & 15 Car II, Sess 4, Ch. 2, and 17 & 18, Car. II. Sess 2, Ch. 2).

(*g*) Ancient Crown Rents.

(*h*) Customs and Subsidies of Tunnage and Poundage.

In addition, " all other Rentes yt were in charge ye 4th of September last, or shall after grow due during ye Term of this Farme. All other his Majesties

Revenues certain and casuall which shall be due from ye 26th of December 1675. . . . Excepting such addicon to ye Revenue as shall be after made by Parliament."[17]

It will be seen that the king granted a farm of all the Irish revenues, but not of the Exchequer issues—that strange grant made to Lord Ranelagh and his partners. In return, the farmers covenanted to pay an annual rent of £240,000 (increased in 1678 to £300,000) by monthly instalments. The farmers were not allowed to retain as their profit the amount by which the revenue exceeded the rent. They were to have the first £48,000; and, in addition, one-sixth of the excess over £288,000, the remaining five-sixths " to be applied to such publick uses for ye benefitt of his Majesties Subjects in Ireland as ye Farmers shall humbly recommend and his Majesty approve of."[18] The lease stipulated that the port of Kinsale should be a free port. The Alnage duties and the Prizage of Wines were excluded from the farm; and the king reserved the right of allowing reductions in Quit Rents not exceeding in the aggregate of reductions £7,000 a year. The Casual Revenue was still to be collected by the sheriffs and their assistants and paid into the Exchequer; but the amount collected was to be allowed as part of the rent due to the crown. For the collection of all other duties the farmers were empowered to appoint their own officers, but the King's Customer remained as a check to see that the imports and exports paid the full amount of duty legally chargeable. The Customer and all the Exchequer officers were paid by the crown. As a further check the lease gave power to the government to appoint persons not exceeding five in number to sit with the farmers as a kind of Revenue Board " to informe his Majesty what ye Revenue hath produced, what monies are due to ye Farmers, How much they have received and what hath been paid to his Majesty, that in case of miscarriage timely remedy may be used for securing his Majesties

[17] *Bibl., Lansdowne (B.M.)*, 686, folio 3.

[18] Ibid. Folio 4.

Rent."[19] Five government commissioners were in fact appointed at £300 a year each.[20] The farmers' accounts were subject to yearly audit. Finally, " all clauses in ye Grant are to be expounded favourably for ye Farmers and strong against ye king."[21]

These leases of the Irish revenues were given by the King " of his especial Grace, certain knowledge, and meer motion " acting on the advice of the Lords Commissioners of his Treasury in England and others of his English Privy Council. They were granted despite the statutes of the Irish parliament restricting the crown from alienating the duties.[22] The lease of the Crown Rents had the effect of disorganising the Court of Exchequer which had been built up, on the Receipt or Inferior side, for the purpose of managing this part of the King's revenue.

The Crown Rents had always been collected by the sheriff and accounted for in the Court of Exchequer. The farmers dispensed with the ancient arrangement and appointed other collectors of rents, who received their assessments from an official called the Clerk of the Quit Rents, and rendered their accounts to an official of the farmers called the Accountant-General of the Revenue. When the leases expired, the executive decided to continue to exclude the sheriffs from the collection of the crown rents and to give the collection to the officers of the Revenue Department, established to manage the customs and excise duties granted in 14 and 15 Car. II, chapters 8 and 9. From that date the sheriffs were confined to the collection of the Casual Revenues, and the expensive organisation of the Superior Exchequer was retained to deal with a minute fraction of the revenue, the part called " casual," the yield of which was considerably less than the salaries and fees paid to the assessing, collecting and accounting

[19] *Bibl., Lansdowne (B.M.)* 686, folio 6.

[20] " His Majesty's present Establishment for Ireland, commencing March 25, 1676." *Lansdowne*, 686, folio 36, &c.

[21] *Lansdowne*, 686, folio 12.

[22] " Non obstante severall clauses in ye Acts against Farming or charging ye great branches of ye Revenue." (*Bibl.. Lansd.*, 686.)

officers.[23] There is nothing which throws a clearer light on the stability with which vested interests remain rooted than the continued existence in both Ireland and England of the antique Exchequer Court long after the great revenue departments had been instituted and had taken over the collection of the entire modern state revenues, leaving to the Court of Exchequer only the ancient casual revenue, and the fines and forfeitures levied in court.

[23] Petty (*The Political Anatomy of Ireland*, p. 360) says that the exchequer officials had become so lax that "principal officers of the exchequer have represented the state of the public treasury near £200,000 differently from each other"; and explains that the "farmers" were given the revenues in the hope that they would improve the administration, while they themselves looked for great profits. The result was "a calamity on the people who have paid great wages to them that have made faults, but three times greater to those who would but undertake to mend them, though indeed they could not." Petty himself worked out a scheme for raising a revenue in Ireland of £420,000 (*Petty Papers*, Vol. I, p. 98), and on May 24, 1683, a document was signed by the Lord Lieutenant of Ireland and the Lord Privy Seal and the Lord Treasurer certifying that the King had promised Petty 1/5th of any additional Irish revenue accruing as a result of his advice (the *Petty Papers*, Editor's note p. 76). One of Petty's numerous draft Commissions, all complete except for the Royal signature, grants himself 1/5th of the extra Irish revenue arising as a result of a special survey "of the lands, People, Trade and Revenues in Ireland," a kind of Census which has not yet been taken in any country. *Papers*, pp. 98 to 102.

CHAPTER V

English Legislation Binding Ireland

The Revolution, as the defeat in 1688 of King James by William, Prince of Orange, and the comparatively peaceful accession of the latter to the throne, is known to historians of England, marks in the constitutional history of that country the beginning of a rapid development in civil liberty and political freedom; but in Ireland, where the new monarchy was established by battle, it meant no such thing. The year 1688 marked but the beginning of the war in Ireland. The Articles of Limerick were signed on 3rd October 1691. The Irish parliament met in 1692.

King James, on landing in Ireland on 12 March, 1689 had summoned a parliament which met in Dublin on May 7th, and sat until July 18th. This parliament passed some laws which, although they were repudiated and declared void by statutes passed first in England and later in Ireland, are of importance from the historical view point. Thirty-five acts altogether were passed. The third of these was "an act declaring that the parliament of England cannot bind Ireland". In view of the degrading surrender made soon after by the protestant parliament of Ireland of its legislative independence to the British Houses of Parliament, this act is of especial interest. It reads very like a Declaration of Rights passed by the Irish parliament in 1782 at the instance of Henry Grattan. The preamble is as follows: "Whereas His Majesties Realm of *Ireland* is, and hath been always a distinct Kingdom from that of His Majesties Realm of *England*, always governed by His Majesty, and his Predecessors, according to the ancient Customs, Laws and Statutes thereof; And as the People of this Kingdom did never send Members to

any Parliament ever held in *England,* but had their Laws continually made and established by their own Parliaments : So no Acts passed in any Parliament held in *England* were ever binding here, excepting such of them as by Acts of Parliament passed in this Kingdom were made unto Laws here; yet of late Times (especially in the Times of Distractions) some have pretended, That Acts of Parliament passed in *England*, mentioning *Ireland,* were binding in *Ireland;* and as these late Opinions are against Justice and National Equity, and so they tend to the great oppression of the People here, and to the overthrow of the Fundamental Constitutions of this Realm ". The act declared that no English act passed or to be passed should be in any way binding in Ireland, even though it should purport to apply to Ireland; with the exception of English acts made into law by the parliament of Ireland. It determined that an appeal to an English court or to the House of Lords in England was an offence punishable by law as the court should decide; and reversals of the judgments of Irish courts by any English court were declared illegal.

An act granting freedom to Ireland to trade with British colonies and plantations was also passed (No. 29). This act provided for the establishment in Ireland of six free schools for teaching mathematics and navigation.

Poynings' law was debated in Committee, and parliament was in favour of repealing it. Even in his difficult circumstances it is noteworthy that King James did not wholeheartedly concur,[1] but suggested a procedure which represented a compromise between the existing position of the Irish parliament and that of the parliament in England. His desire was that after the houses of parliament in Ireland had drawn up bills, they should have them transmitted to England for the agreement of the King (in Council) before passing them. By this means bills could be suppressed in England or altered before being passed by the Lords

[1] *A True Account of the whole proceedings of the Parliament in Ireland, beginning March* (sic), 1689. (London, 1689.)

and Commons in Ireland. A bill, passed in both houses, and sent to England for the royal assent, or dissent, would be a much stronger proposition than a draft sent to England possibly without having been laid before one of the Irish Houses of Parliament, and certainly endorsed finally by neither. This plan of the King has not received the attention it merits. It was ingenious; one of those compromises for which English diplomacy is so justly famous. The report was recommitted, and time did not permit of any final action. The parliament was sitting on a powder-barrel, and the spark of ignition was not long delayed.

While the war was still in progress in Ireland, the English parliament passed an act (1 William and Mary, Sess. 2 c. 9) condemning the acts and proceedings of James's Irish parliament, " And although all the said proceedings are absolutely null and void in themselves, yet nevertheless, for the more plain and express declaring and asserting the sovereignty, rights and dignities of the crown of England, and for the clearing all doubts . . ."

Two reflections are induced by these proceedings in Ireland and in England. The first is that Irishmen of any creed being assembled as a legislative authority, were at that period resolutely opposed to Poynings' law. James's parliament obviously applied itself only to essentials. It deliberated in an atmosphere which was anything but peaceful, and certainly not conducive to historical or antiquarian research. The grievance about Poynings' law must have been felt throughout the country to be oppressive and what the colonists, in the loose English way of speaking about such matters, called unconstitutional. On the other hand the King was not prepared lightly to forego the advantages which a Stuart administrator had been the first to derive from the old law of Tudor times. Expelled from his throne and his country, taking refuge amongst his Irish subjects, he still revolted at the thought of being honest about Poynings' law and, in return for its repeal, would

bargain for a concession which no English parliament would dream of granting.

The second reflection is that while one of the first laws passed by the Jacobite parliament denied the jurisdiction in Ireland of the parliament of England; the English parliament, as one of its earliest acts after the Revolution, at a time when no parliament was sitting in Ireland, declared the invalidity of these thirty-five Irish acts. Was English legislation binding in Ireland? Considering the existence of a separate Irish parliament the question seems a strange one; yet the claim to bind was advanced on behalf of the English parliament, and, when doubt was greatest, was enforced by a British statute.[2]

In early times, English legislation had been adopted as the law of Ireland by express enactment of the Irish parliament. An example is provided in the reign of Edward IV when an act concerning rape (6 Ric. 2 cap. 6 English) was made law in Ireland (8 Edwd. IV cap. 1 Irish). The Irish act did not stop at this, but ordained in addition "that from henceforth . . . all other statutes and acts made by authority of Parliament within the realm of England, be ratified, and confirmed, and adjudged by the authority of this Parliament in their force and strength from the said sixth day of March." This act made all English laws of that period of force in Ireland. In the reign of Henry VII an act was passed to regulate the office of Treasurer in the Irish Court of Exchequer; and the English powers were, without being specified in the act, assumed for the head of the Irish Exchequer.[3] A little later, in the same session, an act was passed making all existing English public statutes binding in Ireland.[4] Both the act of Edward IV and that of Henry VII applied to statutes already made in England. It was within the competence of the Irish parliament to adopt the laws of any country. It sacrified nothing of parliamentary

[2] 6 Geo. I, c. 5.
[3] 10 Henry VII, cap. 1.
[4] 10 Henry VII, cap. 22.

independence by these acts, nor indeed of dignity when one considers the confined conditions of the times. The preamble to 10 Henry VII cap. 22 discloses the cause of the statute. "Many and diverse good and profitable statutes" had lately been made in England "by great labour, studie, and policie"; and that country was "ordered and brought to great wealth and prosperity". Like all parliaments, this of Henry VII assumed that prosperity resulted from statutes and ordinances, and argued that what had been good for England would be good for Ireland, "by all likelyhood". It therefore applied to Ireland all those English statutes which concerned "the common and publique weal."

In the reign of Edward III an act was passed (31 Edw. III c. 12) which ordained that "bills and suggestions" should be sent from England to Ireland—a premonition of Poynings' law as the law operated after 1640. An isolated and early instance of legislation passed in England purporting to bind Ireland was 31 Edw. III cap. 17, which enacted that the Justice (*i.e.*, Chief Governor) of Ireland, with the aid of a Prelate and an Earl, the Chancellor, Lord Treasurer and other Justices and Barons of the Exchequer should enquire once a year into the conduct of inferior state officers and certify their proceedings to the King and Council in England.

In the reign of Elizabeth an imperial act was passed (8 Eliz. cap. 3) prohibiting the exportation of live sheep, rams and lambs from any of "the Queen's Dominions". It was not, however, until the reign of Charles II that any volume of legislation having reference to Ireland passed at Westminster. The acts granting the forfeited estates as well as numerous private acts making grants to individuals were passed by the parliament in England. Similarly acts were passed after the Revolution of 1686 dealing with the Irish forfeitures. In both cases the authority thus surreptitiously taken was used as a precedent, and acts were passed regulating Irish trade with foreign countries. The English parliament argued that at least it was entitled to reserve to itself legisla-

tion relating to external matters; it would not encroach upon the Irish parliament's preserve in regulating the internal economy and order of the state; but trade with foreign countries and with Great Britain and her dependencies was a matter for imperial legislation. Accordingly, acts were passed prohibiting the exportation of butter from Ireland to England, confining the exportation of Irish wool to England and Wales, and forbidding the exportation of cattle. The most serious restrictive legislation was passed in the reign of William III. The first Irish act of William and Mary had reference to the proceedings of James's Dublin parliament. By 3 William & Mary c. 2, members of the parliament of Ireland were required to take two oaths and a declaration against transubstantiation. By 10 Wm. III c. 1, the King was empowered to retain in Ireland a standing army twelve thousand strong. Besides these, numerous acts were passed with the intention of destroying the Irish woollen industry and encouraging the linen industry.

The first of these acts determined the ports in England to which Irish wool might be exported. That was obviously a decision within the sole competence of the English parliament, but the act also imposed upon the Irish revenue authorities the duty of sending every six months to the Board of Customs in England an account of wool exported from Ireland, the quantity and weight, the name of the exporter and the shipper, the port to which consigned, and the names of the consignees..[5] The Irish parliament ought not to have allowed this. Their complacency in accepting the acts dealing with the Jacobite parliament, the Oaths of Allegiance, and the Declaration which prevented Catholics from entering parliament, as well as the acts public and private relating to the forfeitures, can be understod, although an independent parliament could not have agreed to them; the estates were forfeited to the King of Ireland, not to the King of England. The Revenue Commissioners could not have refused to obey; the dependent judges

[5] 7 & 8 Wm. III. cap. 28, sec. 6.

would in any case have enforced the English law. At a later period, when the damage to Irish trade had been done beyond undoing, the Revenue Commissioners did refuse to obey, and a judge who occupied the position of principal secretary of state in Ireland announced in parliament that he had always asserted from the seat of judicature that Ireland was bound by no laws but those made by the King, Lords, and Commons of Ireland.

Having succeeded in establishing an authority to pass legislation binding in Ireland, the parliament in England made a drastic use of the power. The next act (10 & 11 Wm. III c. 10) prohibited the exportation of wool and woollen goods from Ireland to any country except England and Wales; determined the Irish ports from which alone exportation could be made (Dublin, Waterford, Youghal, Kinsale, Cork, Drogheda), as well as the ports in England and Wales where the goods could be landed; and obliged the Irish Revenue Commissioners to send full accounts to the Customs authorities in England of all exportations made under the act. The statute went so far as to apply the moneys recovered as penalties for infringements of the law, viz.: one-half, " to the encouragement of setting up the Linen Manufactures in *Ireland,* to be disposed of by the Court of Exchequer there ". The Lord Lieutenant or Lords Justices were required to issue an Order in Council directing the judges to see that the act was enforced: " which Judges are to take particular Accounts throughout their Circuits of the Execution of this Act, and at their return to *Dublin* shall acquaint the Lord Lieutenant; or Lords Justices in Council, with all Informations they shall have received of any Breach of the Act, or Faults in the Officers; of which the said Chief Governors shall once every Year lay an Account in writing before the King in Council."[6]

Just as the parliament of 1662, blinded by the personal greed of its members, gave away control of finance and enabled the King to govern without a parliament

[6] Section 21.

for thirty years, so this parliament of 1692 sacrifised its legislative authority and permitted the parliament in England to destroy the trade of Ireland and to reduce the population of the country to a state of extreme poverty. It is not the purpose of this work to describe in detail the trade policy of England and its effects on Irish economic development. The parliament of England had its own good reasons, according to the current economic theory, for monopolising foreign trade. What is reprehensible is that the Irish parliament should have so tamely, without one dissentient voice, so degraded itself as to accept these acts of William's English parliament. The huge hereditary revenue Grattan called "that original sin of your ancestors, which visits you from generation to generation,"[7] The sin of 1662 was less grievous than the sin of 1692. By both of them subsequent Irish parliaments were born diseased; by the sin of 1692 the disease was visited on the body of the people. Little over fifty years before, the Irish House of Commons had placed on record "*nullo contradicente*, that the Subjects of this His Majesty's Kingdom are a free People, and to be governed only according to the common law of *England*, and statutes made and Established by Parliament in this Kingdom of *Ireland*, and according to the lawful custom used in the same."[8] Now, in 1692, English legislation was accepted, and this terrible precedent was based on the distribution of the seized properties.[9]

Is it coincidence and remarkable luck, or far-seeing policy that enabled the government of England, while retaining the trappings of parliament in Ireland, to use the parliament only as a catspaw to rake to the royal

[7] 13 November, 1781. Speech on repeal of perpetual Mutiny Act

[8] *Commons Journals*, 26 July, 1641.

[9] We are fortunate in having William Molyneux's contemporary explanation and apology: "We cannot wonder that during the Heat of a Bloody War in this Kingdom, when it was impossible to Secure our Estates and Properties by a Regular Parliament of our own; we should have recourse to this Means, as the only which then could be had. We concluded with ourselves, that when we had obtained these Acts from the Parliament in *England*, we had gone a great way in securing the like Acts to be passed in a regular Parliament in *Ireland*, whenever it should please God to re-establish us in our own Country." (*The Case of Ireland's Being Bound by Acts of Parliament in England Stated*, 1st edn., 1698. pp. 109—110.)

coffer additional duties? It has been seen, and will later be seen, how Poynings' law—a law of the King, Lords and Commons of Ireland—gave to England a controlling voice in all Irish legislation. It is a mixed story of accident and design. The grant of perpetual duties to Charles II was clearly a surrender by the Irish parliament of its duty to itself and its successors. On the other hand, the assumption of legislative authority by the English parliament happened in such circumstances that there seems to be some ground of apology for the Irish parliament. At the granting away of forfeited estates, both in 1642 and in 1692, influential people found that they could make their bargains and secure their loot more easily in England than in Ireland. The members of the Irish government, the Lords Justices, were themselves as keen as the keenest in looking after their private interests. The distribution took place, therefore, in England. It would, as the result proved, have been wise policy if the people who lost their property had humbly begged the King to give it away in Ireland, and to refuse to listen to pleas put forward in England. Since the titles to estates were given by act of the parliament of England, the Irish parliament of 1692, all of whose members got a share of the forfeited property, could not have disputed that the English parliament had some authority over Ireland. It would, from their point of view, have been lunacy. A hundred years later, when a determined effort was being made to bar English legislation in Ireland, an argument was used by the Government which put cold fear into the hearts of all the members. "I have looked over the pages of the forfeited estates," said the Attorney-General in the House of Commons, "and find that there is scarcely a man in the House that does not enjoy some portion of them, nor a county in Ireland of which they do not make a considerable part. . . . Yet we are desired to implore his Majesty, that he will be graciously pleased to deprive his faithful subjects of Ireland of their estates, held under acts of the British parliament, because that parliament never had any

power to make laws binding upon Ireland ". He painted a gruesome picture of the descendants of the ancient proprietors laying claim to their forefathers' estates. " Would you set the property of the Kingdom adrift? Would you shake your own titles?" asked another Government supporter. If such arguments carried weight in 1782, when the owners had enjoyed an undisputed title for nearly a century, one can readily understand that in the hectic days of 1692 there was no desire to dispute the right of the English parliament to legislate for Ireland, since the newly-won titles could have been at once called into question.

The Irish parliament might have acted after the fashion of the parliament of Henry VII and passed a sweeping act sanctioning all those recent acts passed in England which had reference to Ireland. Having done that, they might have strongly asserted their rights as the only body competent, jointly with their King, to legislate for Ireland. It will be seen, however, that they undertook another task of great importance. It was clearly understood in 1692 that a mistake had been made in granting large perpetual revenues to the Crown. In order to preserve its own existence, the parliament determined to remedy that mistake. The parliament of 1692 was determined, at any cost, to live. The reasons were not unselfish. The ideal of public service was not uppermost in the minds of Irish politicians of the seventeenth century. The news of the convention of a parliament caused great excitement amongst those whose interests were likely to be affected, and a private remark by one of the secretaries of state to some of the members-elect gave an indication of the struggle which was likely to ensue. The secretary was discussing the bills which the government intended to have passed, and, on being told that the House would think well before passing them, he said " that it would be in vain to trouble themselves about it, assuring them that they were as well debated already as was needful, and they had nothing else to do but to pass them, and added, that if any Scruple was made about them, there

would never again be a Parliament in Ireland."[10] But the parliament of 1692 which surrendered so much of its legislative independence, did not fall into the error of its immediate predecessor of 1662 in the matter of financial control.

[10] *An Account of the Sessions of Parliament in Ireland*, 1692. London, 1693 (published in Tracts, 1690-1695), page 3.

CHAPTER VI

The Beginning of Financial Control

Ireland was " reduced " in 1691 and a parliament was summoned and met on 5th October, 1692. The revenues granted in 1661-1666 had been sufficient to defray the expenses of the Military and Civil lists until the Jacobite " trouble ". Further supplies were now needed to defray the increased military expenses; and for that reason government by parliament was again tolerated. Although the Parliament of 1692 lasted for less than a month, its sitting was notable. For the first time in the history of Irish parliaments, accounts —not, it is true, perfect—of the public income and expenditure were laid before it by the government. On the 15th October, 1692, Mr. Poulteney, a member of parliament and a secretary to the Lord Lieutenant, delivered to the Clerk of the House of Commons the civil and military expenditure papers. These were referred to a committee of the whole House to consider supply; and the Committee of Supply reported to the House a resolution that a sum not exceeding £70,000 should be granted " to be applied towards the future payment of the forces now in this Kingdom and defraying the other necessary charges of the Government for one year.[1] The supply was to take the form of an additional excise duty on beer, ale and spirits.

In discussing the extent of the Irish parliament's fiscal control, it has been indicated that, since it was apparently hopeless to influence government while the major portion of the revenue was " hereditary " or perpetual, the parliament early turned its attention towards the second, and generally later, means of checking extravagance and maladministration by a

[1] October 15, 1692, *Commons Journals.*

post-mortem inquisition into the public accounts. Since at 1692 a definite stage was reached in the history of the parliament's control by its criticism of past accounts, it will be helpful to turn back and see how far previous Irish parliaments entered upon this sphere of activity.

It is difficult to see how any control of expenditure, granted the existence of the necessary funds, can by any parliament be exercised if the executive does not control the civil service, and if the morale of the civil service is low. In very early times, there was no civil service beyond some clerks and " scribes ". The political officers controlled the government and were themselves also the administrators. An ancient document of the Irish Exchequer describes how the chief justiciary (or chief governor) in A.D. 1285, Stephen, Bishop of Waterford, took all power from the Treasurer and Barons of the Exchequer. " The justiciary orders, levies, respites and does what he likes ". It appears that he took the keys of the treasure box from the chamberlains and " causes it to be carried away whither he pleases and no chamberlain knows ". He also took control of the Mints in Ireland, mixed up moneys received as King's Revenue with moneys of the Mints; and " the keepers of the Mint are subservient to him, and indebted to him for their robes." What kind of account could be expected? The roll tells us this much. "Peter de Balimor, the keeper of the first roll, was compelled by the justiciary to write the account of the Mint. He avowed that he did not know how to audit the account, while the justiciary dictated and ordered it in his own way. For refusing to do so and for asking the justiciary in what account he wished the justiciary's debt of £3,603 6s. 9d. to be placed, wherewith he was charged by the keepers of the Mint, the justiciary removed Peter from that place."[2]

Where there is no check on accounts, there can be no accuracy. If the accounting department of state—the Exchequer—is taken over by one man, or if, as was the case later, the officers in the departments owe their

[2] *Irish State Papers*, 1285–1292. Cal. pp. 1–15.

appointments to the political heads and are paid low salaries and permitted to take arbitrary fees, then public accountancy is, from the taxpayer's point of view, something of a sham.

As an early instance of the view taken by the Irish government of its duty in regard to the paid officials, the House of Commons in 1615 recommended to the Lord Deputy that legislation should be passed " prohibiting the clerk of the pipe, or any other officer in the Exchequer, to write for any debt of his Majesty after a tally stricken, or other discharge, appearing of record, upon pain of forfeiture of their offices "; and the Lord Deputy calmly wrote in reply: " A good act, and fitting to restrain the liberty, which those officers have licentiously assumed."[3] One would have thought that such legislation should not have been necessary. There are many instances which suggest that the Irish paid officials (they were, in law, no more permanent than the present-day officials, but " at pleasure " was in olden times interpreted more literally than it is to-day) were not subject to control from above, and that abuses, at the expense of the citizen, were acepted as unavoidable. This very fact placed the House of Commons in a position which would otherwise, to the modern view, appear inexplicable. From the earliest records of parliament in Ireland, it is clear that the state officers were commanded to attend before the House of Commons to answer for their actions, especially in the matter of accounts. The sheriffs, who were the collectors of all revenue except customs and the later duties granted to Charles II, appeared before select committees of the House of Commons and were examined on their accounts. The Barons of the Exchequer, who were ultimately responsible for passing all accounts, assisted the House, and in their name the subordinate officials of the Exchequer were commanded to attend with their books.

On the 11th of May, 1615, the House of Commons made an order " that the Sheriffs shall forthwith make

[3] *Commons Journals*, Vol. I, p. 33.

up their accounts "; and on the following day ordered " that the Barons of the Exchequer shall be intreated to meet in the House of Commons this afternoon, to confer with the grand Committee, touching Sheriffs' accounts, and the rest of the Committees that were appointed yesterday by the House, to examine Sheriffs' accounts, shall have the like authority, as they had yesterday, and to meet and confer with the Grand Committee and Barons as aforesaid, and that the foreign apposer be then ready to attend the said Committees with his green wax books, to see what monies are received and totted, since the beginning of this term."

Strange to say, the first attempt made by the Irish parliament to obtain accounts ready-made from government was for what might more properly be called estimates. In 1634 the Lord Deputy was asked to place before the House a list of His Majesty's debts " that thereupon this House may take into consideration a fit and convenient way for the discharging of all such, as are just and duly owing from His Majesty."[4] The evident intention was to obtain an account as a basis for a grant of subsidies. On this occasion, the list was supplied and was examined by a Committee of the House and their report was adopted and presented to the Lord Deputy in the 1635 session (3rd) of Charles I.

When Wentworth came to Ireland as Lord Deputy, and forced the grant of subsidies, the House of Commons took a strong stand on their right to issue instructions regarding the " assessment or levying " of the first of the subsidies. The Lord Deputy had issued certain orders to the heads of the Exchequer; but parliament, in 1639, passed a solemn declaration which was entered with the Clerk of the Privy Council, the Office of the Auditor-General, the Chief Remembrancer, and the Office of Rolls of the High Court of Chancery, to the effect that they would, " having regard to his Majesty's many present and weighty occasions," permit the subsidy to be collected as assessed, according to the instructions of the Lord Deputy and

[4] 13th December, 1634. *Commons Journals*, Vol. I, p. 90.

Council, " yet as by the order and direction of this House, and not with any relation to the said instructions ". The House then made orders (20 Oct., 1640, and 11 November, 1640) prescribing the rates for the taxing of the other subsidies. These orders the Lord Deputy ordered to be " vacated and torn out of this book ". (19 November.) It was one of his last acts in Ireland. The Commons sent their Remonstrance to the King, and the Lords Justices received a letter from the King dated 4 January, 1641, authorizing " our Justices and Councel there, that they give directions to the Speaker of the said House of Commons in that our Realm, that the orders which concern the rating and levying of the said subsidies, with these our letters, be enrolled amongst other acts of the said House."[5] This slight victory of the parliament is only worth noticing. At that time the civil administration was becoming chaotic. In February, 1640, the House of Commons issued an order to the customs officials of the kingdom (" all Customers, Surveyors, Comptrollers, Collectors and Searchers and their several deputies in the several ports and creeks of this Kingdom ") to deliver to the House within two months statements of accounts of monies in their hands of seizures, etc.; and they appointed Thomas Little the Younger[6] to " have the liberty of the Castle only, that he may give an account of the King's revenues, and that no person or persons shall speak with him, but shall first address himself to the Constable of the said Castle, and make known unto him the cause of their speech with the said Thomas Little "; and appointed a Committee of the House to attend at the Castle and supervise the arrangements while the accounts were being prepared, so that there could be no official collusion.[7] (3 March, 1640.)

The parliament had thus passed from a review of estimates to an examination of the accounts—an accountancy audit to check frauds in the accounts, not an appropriation audit, because at the time there was no appropriation of supplies made by parliament.

[5] Entered *Commons Journals* under date 10/2/1641.

[6] One of the six members from Kings county, entered in the Roll of Parliament as Thomas Little, Junior, Generosus.

[7] This was after Strafford's recall, and the action was probably, as suggested by Carte (*Life of Ormonde*, p. 127), as much due to a desire to secure evidence against the late lord lieutenant as to introduce order into the public revenue.

Calling for the accounts of every local collector of customs was a clumsy way of examining the accounts, and no body of men could criticise or check piece-meal statements of the kind. The Commons probably experienced that; for in August, 1641, they adopted a different plan, and by their order " the Justices of the Peace, and other prime gentlemen of every County within this Kingdom, or any two or more of them, of every City or Town Corporate within this Kingdom . . . are hereby appointed and authorized Auditors." These local auditors were empowered to summon to their presence all collectors of revenue who were to bring with them their accounts; and they were ordered to make a written report to the House within two months after the next general assizes or Quarter Sessions. Parliament was adjourned on 9 November, 1641, and the Rebellion of 1641 was then in progress; so that nothing more was done at the time in the matter of auditing the collectors' accounts.

The revenue accounts at this period were more involved than they are to-day; and even if the House of Commons had obtained them, it would have been unable to check them. From the earliest times until the institution of banking became developed, the local collector was a government banker. He received taxes and rents and paid on demands made upon him in proper form. It was simpler, when transport was tedious and unsafe, to avoid sending the entire revenue receipts to Dublin and then remitting from the receipts to the state's creditors in different parts of the country. If a creditor resided in Louth or in Galway, the local collector would pay him the amount owing to him on production of a proper warrant. What was needed, in such circumstances, was that the accounts should be presented to Parliament in an edited and digested form;

but this was a concession which parliament would have been unable to obtain.

The parliament of Charles II's reign has already been commented upon. One of their earliest actions was to make an order " that, for the future, no Sheriff, under-Sheriff, or other officer, or person whatsoever, presume to disturb or dispossess any Member of this House, upon any order, or pretence of any order, during the continuance of this present Parliament, without the leave of this House first had and obtained ". So keen were the members in preserving their minds free " that so they might the better attend the publick trust reposed in them " that the Lords Justices were constrained to admonish them " that there are great sums of money owing by Members of this House unto the King, who refuse payment and insist upon their privileges; and that there are several others, who are likewise indebted to his Majesty, that plead the protection of Members of Parliament; both which their Lordships recommend unto the wisdom of this House for a suitable redress."[8]

Fortunately for the state of the Exchequer, this disinclination to pay taxes did not prevent the House of Commons from taking action to assist the administration in the general collection of the revenue. On 24 July, 1661, a message was brought to the House from the Lords Justices " to acquaint them with the great Inconveniences and Prejudice, which doth arise to his Majesty's Army by the Failure of the Payment of the Excise which from Time to Time, hath been assigned towards Payment of the Army; and that some speedy Course be taken for the due levying thereof "; and the House thereupon appointed a Committee to meet two of the Commissioners for managing the Customs, Excise and New Impost and to prepare a list of persons who, although liable, refused to pay these duties. The list was duly presented by the Committee on July 26th, 1661, and one defaulter, Mr. Emur Turney, was singled out and summoned personally to attend the

[8] *Journals*, 19 July, 1662.

House to answer for his " Contempt and Disobedience in refusing to pay the Excise due from him."[9] Another type of action taken by the legislature was to investigate the fees demanded by the officials from the public. The House appointed a Committee to examine fees and suggest regulations in 1614; in 1640/1, 1662 and 1665. They also inquired into the fees levied upon sheriffs when passing their accounts in the Court of Exchequer. In making these inquiries, the Special Committees called upon the officers of the Exchequer to supply them with information. From seeing the books of record the House of Commons began to feel its way towards obtaining the complete accounts. On 12 October, 1692, a Committee was appointed " to search precedents, how the Committee of Grievances may come at records, accompts, and papers in the hands of any of their Majesty's officers of the revenue and others ". This Committee mentioned in its report that in the year 1690 the English House of Commons had ordered the production of the public accounts and that the order had been duly complied with. It was as a result of this report that the Irish Commons made their first order for the production of accounts. On 14th October, 1692, a motion was made " that the state of the revenue of the nation, and also the establishments, civil and military, may be brought into this House to-morrow morning, and laid before this House, that it may the better be known what supplies are necessary to be given to their Majesties," and an order was made accordingly. On the following day, the accounts were supplied by the direction of the Lord Lieutenant, and were referred, as already stated, by the House of Commons to the Committee of the whole House to consider supply.

The year 1692 marks the beginning in the life of the Irish parliament of an epoch which ended in 1782. At a time when the executive was strong and the parliament weak, when the revenue derived from perpetual taxes was adequate to meet the expense of government, the Chief Governors had shown little spirit of accom-

[9] *Journals*, Vol. I, p. 438.

modation. They had been harsh in their use of the legal instrument handed down to them by the Parliament of Sir Edward Poynings. Wentworth was the first to clarify the relative position of King, King's Council and Parliament in the exercise of legislative authority. The parliament of 1661 had no power, and it also rendered its successors up to a point powerless. But the time had come, when the parliament of 1692 was summoned to meet, when the hereditary revenue was inadequate to meet the expenses of government, and the Irish parliament was once again in a position to play the usual strategy of parliaments in contest with the powers of government. From 1692 to 1782 the story is of that strategy.

Three weeks after the parliament opened, the Supply Bill was rejected. The House of Commons had proceeded with the normality of a fiscally-independent parliament. It had called for the public accounts; considered supply; and voted the amount of £70,000. It had then considered Ways and Means, and agreed to raise the extra revenue by an additional duty of excise upon beer, ale, aqua-vitae and strong waters, to last for one year. The Privy Council had, before the convention of parliament, sent to England two Supply Bills, one for an additional excise duty on liquor, and one for a tax upon corn; and, in due course, these bills were laid before the House of Commons. It was on Monday, October 24th, 1692, that the House had agreed in principle to an additional excise duty. On the following Wednesday, two Money Bills were received from the executive. The House of Commons was placed in an awkward position by the action of the executive in making a choice of Money Bills for the purpose of complying with Poynings' law; although the choice was logical, because the only purpose for which the parliament was called was to grant supplies. Both bills were ordered to be laid on the table of the House and a motion was then made that the bill for an additional excise should be now read; " and, the question being put, passed in the negative ".

On Thursday, October 27th, 1692, the House again met, having in the meantime reached agreement on this difficult question. The members were anxious to grant the necessary supplies, but the majority was determined to insist on the exclusive right of the House of Commons to originate proposals for taxation. It was decided to pass the Excise Bill without delay and without discussion, although there were clauses in it which might have been improved.[10] The bill had been refused on first reading the day before. It was now given this reading, introduced by a series of resolutions, unanimously passed in which the exclusive right of the Commons to initiate legislation for raising money was asserted. The resolutions contain an explanation, or apology, for the action of the House of Commons in not insisting upon its right in the present instance. " Resolved, that it was, and is, the undoubted right of the Commons of Ireland, in Parliament assembled, to prepare and resolve the ways and means of raising money.

" Resolved, that it was, and is, the sole and undoubted right of the Commons to prepare heads of bills for raising money.

" Resolved, that, notwithstanding the aforesaid rights of the Commons, this House doth think fit, upon consideration of the present exigencies of affairs, and the publick necessity of speedily raising a supply for their Majesties, to order a bill, transmitted out of England, entituled, an act for an additional duty of excise upon beer, ale, and other liquors, be now read : whereupon the said Bill was read the first time, and ordered a second reading to-morrow morning at ten of the clock.

" Resolved, *Nemine contradicente,* that the receiving or reading of the said bill, so transmitted as aforesaid, be not drawn into precedent hereafter."

The Excise Bill received its second reading on 28th October and was passed by the Commons on 29th October, 1692.

[10] For example, although it was a bill for an additional duty, it taxed certain liquors which were outside the scope of the permanent excise acts.

On Friday, 28th October, the second of the two Supply Bills, " An Act for granting to their Majesties certain duties for one year " was taken up and was refused a first reading. It was resolved " that it be entered in the Journals of this House, that the reason why the said bill was rejected is, that the same had not its rise in this House."

There was, however, no desire or intention to limit the executive in the necessary supplies, and the House resolved itself into Committee to consider an alternative means of raising the additional revenue. The provisions of the rejected Corn Bill were considered, because the Commons would willingly have formulated Heads corresponding word for word to the original bill. " It was considered," according to a contemporary tract,[11] " that the Corn Bill would have yielded no Money until *Summer*, 1693, and part thereof not until *Michaelmas* following; and they thought they might by other means raise the sum much sooner, and more equally. The several ways of raising Money, was thoroughly debated, and at length the Committee unanimously agreed on a Poll Bill ". It is impossible to avoid noticing the resemblance between this financial expedient and that of 1662, when the Hearth Tax was proposed in lieu of the charges of the Court of Wards and Liveries. Even in its grand moments of protest in defence of a principle, the members had in mind their own interests as land-owners, and preferred a Poll Tax to a tax on corn. There is nothing, to my mind, more typical of the mentality of the Irish House of Commons at all periods than one of its resolutions ordering the unsluicing and flooding of fisheries from sunset on Saturday night till sunrise on Monday morning " in order to promote a due observance of the Lord's Day, and also to give opportunities for Salmon and other Fish to go up and spawn in the several Rivers ".[12]

[11] *An Account of the Sessions of Parliament in Ireland* 1692. London 1693 included in *Tracts*, 1690-1695. pp. 19-20.

[12] of 1774

The Poll Bill became law (7 Wm. III, c. 15). Both of these " additional " duties were granted for two years only. They were the first of the " additional duties," by which name the revenue granted by parliament to supply the deficiencies over and above the hereditary revenue came to be called.

Following upon these proceedings, the House of Commons rejected a bill for settling the militia and proceeded to prepare heads of its own bill for the same purpose (31st October, 1692);[13] and it also rejected a bill entitled " An Act for punishing Officers and Soldiers, who shall mutiny or desert their Majesties' service " because its operation was not limited to one year's duration. The parliament was suddenly prorogued on 3rd November, 1692, and the Lord Lieutenant (Sydney) protested against the action of the House of Commons. In his speech he said : " I am sorry, I cannot say, there hath been such a progress made by you, Gentlemen of the House of Commons, towards those ends, as their Majesties had just reason to expect; and I am the more troubled that, you, who have so many and so great obligations to be loyal and dutifully affected to their Majesties, should so far mistake yourselves, as to intrench upon their Majesties' prerogative and the rights of the Crown of England, as you did on the twenty-seventh of October last. . . ." At the same time he ordered the Clerk of the House of Lords to enter in the Journals of that House his solemn protest. This followed closely the form of Wentworth's protest, recited the Acts 10 Henry VII, c. 4, and 3 & 4 Philip and Mary, c. 4, and detailed the objectionable actions of the House of Commons on the 27th and 28th October, 1692, " which recited Votes, Resolutions and Proceedings of the House of Commons, being contrary to the said recited Acts of Parliament, and the continued Usage and Practice ever since the making thereof, and a great Invasion upon their Majesties' Prerogative, and the Rights of the Crown of *England* : We, the Lord

[13] The original bill contained some obnoxious clauses and it was decided to make a fresh draft in accordance with the wishes of the House.

Lieutenant, as well to assert the Rights of their Majesties, and the Rights of the Crown of *England* (whereof we are and ever will be most tender) in transmitting such Bills under the Great Seal of *England,* to be considered of in Parliament, as to discharge the Trust reposed in us, and prevent the Inconveniencies which may hereafter happen, in case these Votes and Resolutions of the House of Commons should be made publick, or remain in their Journals, without any Contradiction or Animadversion, have thought it necessary, this Day, in full Parliament, to protest: And we do accordingly protest against the aforesaid Votes and Resolutions made by the House of Commons, and entered in their Journals, and do assert, protest and declare, that it is their Majesties' Prerogative, and the undoubted Right of the Crown of *England,* observing the Forms in the said several Acts prescribed, to transmit Bills under the Great Seal of *England,* for granting of Aids to their Majesties, their Heirs and Successors, which said Bills, so transmitted, ought to be read and considered of by the House of Commons, in this Kingdom: And therefore, the said recited Votes and Proceedings of the House of Commons, are contrary to the Acts of Parliament above mentioned, and the constant Practice and Usage in all Parliaments since the making thereof; and also highly derogatory to their Majesties' royal Authority, and the Rights of the Crown of *England* ".

The author of the " Account " states that the members were amazed at the sudden prorogation, and were hurt at the insinuation of the Lord Lieutenant that they had acted disloyally. This was the sorest cut he could have administered to the Irish parliament. The charge " sounded very harsh in the Ears of Gentlemen who looked upon themselves, and the rest of the Protestants in this Kingdom, to be as obsequiously devoted to their Majesties' interest, as any of their Majesties' Subjects "; and would make them feel foolish in the eyes of their adversaries " who could not but look upon a Protestant Parliament with trouble, and therefore rejoiced to see it meet with such Treatment." They

decided to send a deputation to England to attend upon their Majesties; but when they presented to the Lord Lieutenant a petition for leave to do so (on 7 November, 1693) the Lord Lieutenant is reported as having replied " that his Majesty was the Protestans Agent; and they shou'd have leave to go to England, to beg their Majesties Pardon for their Seditious and Riotous Assemblies "; and the Lord Chancellor is said to have told one of the four members who presented the petition that their action was illegal and that the Privy Council had decided they should be prosecuted.[14]

Having prorogued the parliament (which was dissolved, without another session, on 5th September, 1693) the Lord Lieutenant directed the judges of Ireland (who were removable from office at the pleasure of government) to state their opinion in regard to Money Bills. The judges reported (*a*) that it is not the sole and undoubted right of the Commons of Ireland, in parliament assembled, to prepare heads of bills for raising money; (*b*) that the Chief Governor and Council may prepare bills for raising money and may certify and transmit the same to their Majesties and the council of England, to be returned under the Great Seal of England, and afterwards sent to the Commons, although the heads of such bills have not their first rise in the House of Commons.

A political pamphleteer of a later date (1753) described the event quaintly. " A clause was found in the family settlement, all in *George's* hand writing, and that was, whenever *Patrick* neglected to make proper regulations in his family, his brother *George* should make them for him; this *Patrick* stiffly denyed to be any part of the settlement, and it was referred to counsel learned in the law, who were chosen and fee'd by *George,* so of course they gave their opinions flatly against Patrick, who thereupon submitted."[15]

In its first big endeavour to assert a right of fiscal control, the House of Commons was beaten; but the

[14] *An Account of the Sessions in Parliament in Ireland in* 1692. pp. 25 and 28.
[15] *A Fragment of the History of Patrick*, London, 1753. pp. 9-10.

protest was not on that account ineffective. The executive had henceforth to reckon with a parliament which, in the face of growing expenses, was not disposed to grant additional supplies without using its new-found power either to obtain more control or to force the government to bribe its members into submission. An unpurchased House of Commons would soon have obtained parliamentary control of finance, and, bribed as it continually was, the Irish House of Commons, from this date onwards, made ever-increasing efforts which, however highly derogatory to his Majesty's prerogative as it was asserted in Ireland, were no more than faltering footsteps in the way already made by the parliament in England.

It may be said that after 1692 Poynings' act ceased to be operative where supply bills were concerned. After a halting compromise in 1695, the practice was adopted by the government of holding a short session to allow parliament to prepare the supply bill and then a second session, after the bill had been returned from England, to enable parliament to pass the bill. Sir Richard Cox, the Lord Chancellor, writing 22nd July, 1704 (when he was also one of the three Lords Justices), said: "Our Parlt. you know is prorogued to 3 Octr And since tis now grown into a Custome to have 2 short sessions (for if a Bill were prepared before hand, They would certainly take that handle, if They were inclin'd to quarrell) It may be worth consideration whether to sit then, prepare bills, and meet again in febr. to finish them or to prorogue till febr. and then sit on till all is done ".[16]

[16] British Museum, Additional MSS. 38153. Sir R. Cox to Rt. Hon. Edward Southwell.

CHAPTER VII

The Committee of Public Accounts, 1695

In opening the parliament of 1695, the Lord Lieutenant, in his speech from the throne, stated that a bill for an additional duty of excise was sent by his Majesty to the Commons. At the same time, he invited the House of Commons to suggest ways and means for raising such extra revenue as the public service required and to prepare heads of bills for this purpose. Thus, while reasserting the right of the crown to initiate a Money Bill, he suggested to the House of Commons to exercise their right to do likewise. There was no precedent for such a request. It left the Commons free to embark upon the entire question of the financial needs of government; and what more clear than that they should need accounts of the public revenue and expenditure before deciding upon any fresh taxation? On 4th September, 1695, a request was made for "the present state of the revenue". In reply to this, an abstract of arrears due to the civil and military lists from 1st January, 1691, to 30th June, 1695, was presented. On the 5th September, 1695, the Lord Lieutenant was asked to give orders for the supply to the House of Commons of "a distinct yearly account of all receipts and payments of his Majesty's revenue", from 12th August, 1689. This request was complied with by the supply, on 7th September, 1695, of the

(1) Civil List Establishment.

(2) Accounts of Revenue from 13th August, 1689, to 24th June, 1695. (3 papers.)

(3) Account of the management, produce and present state of the forfeitures. (5 papers.)

(4) An Abstract of all Receipts and Payments from 5th June, 1690, to 25th June, 1695. (1 paper.)

(5) The Military establishments from 1st January, 1692.

These accounts were referred to the Committee of Supply. In reporting to the House, on 9th September, 1695, the Committee of Supply moved the House to appoint a Select Committee to examine the accounts and papers relating to the revenue. A Committee of twenty-nine members was thereupon appointed by the House, with a quorum of eight; later, on 14th September, reduced to five. In addition to examining the accounts, they were ordered " to inquire, whether the methods of accompting in the Exchequer have been observed since the revolution; if not, in what particulars the same differ, and the reasons of the difference ". This was the first Committee of Public Accounts in the history of Irish parliaments.

In Ireland, appropriation of supply followed, in order of development, examination of expenditure. In England, the order was reversed. The Standing Committee on Public Accounts was first appointed in Great Britain in 1862; the first Select Committee on Public Accounts was appointed in Ireland in 1695, and it became a Standing Order of the House of Commons " That no Money Bill be read in this House until the report from the Committee of Accounts be first made "; while from 1695 no session passed without the appointment of such a Committee. At 1695 there was no appropriation of any kind made by the Irish parliament. The first actual appropriation was a personal gratuity in 1697 to the executors of the Speaker, Sir Audley Mervyn, amounting to £6,000. This was charged on the general revenues voted. In 1698 (3rd December) an appropriation of £3,000 was made in favour of " Trinity College, near Dublin, for enlarging its buildings, and that the same may be paid out of the additional duty on tobacco given to his Majesty this

present session of Parliament."[1] This appears to be the earliest example of an appropriation of part of a particular duty; but the practice of appropriation of the " Additional Duties ", *i.e.*, those additional to the old and new Hereditary Revenues, did not develop until the reign of George I. Ordinarily, appropriation ought to have come first; but owing to the comparative powerlessness of parliament in the matter of legislation, the activities of the House of Commons were turned towards audit, the main object being to bring publicity to bear upon the expenditure of Government. The government was not responsible to the legislature, and the Irish parliament became more and more a Committee of Grievances, to borrow a name from one of its own creations; hoping by means of propaganda to strengthen the demand for parliamentary freedom and to check the autocracy of the executive. " The development of constitutional arrangements in respect of financial matters, which was the inevitable and concomitant result of the institution of cabinet government, owes its success to the fact that it is founded on these two corner-stones: the publicity of the accounts rendered to the House of Commons, and the responsibility of the executive to that House ".[2] In Ireland, responsibility was out of the reach of parliament, and it therefore adopted a policy, which has since been often, and with success, used in Ireland, of calling attention to its grievances.

During the war years the finances of the government had been managed with the carelessness which characterises all war-finance, and it is probable that the confusion of the accounts was a factor in bringing into existence the first Parliamentary Committee of Public Accounts in Ireland. The revenue had not been fully collected, and in 1692 an amount of £88,655 13s. 8d. was

[1] The Provost and Fellows responded with thanks " and as a testimony of their gratitude having no other way to acknowledge the same, they had conferred the degree of Doctor of Divinity on Mr. Travers, Chaplain to this House," an inexpensive mode of repayment, unfortunately not yet fallen out of use.

[2] *The Principles and Practice of the system of control over Parliamentary Grants.* Colonel A. V. Durell (1917), page 6. The quotation is given for what it says, despite the manner in which it says it.

entered in the " estimates " as arrears. This entry, Chief Baron Hely explained in his treatise on The State of the Revenue in Ireland, " is only a guess at large, the Commrs. for the Revenue Charging every thing for Arrears, wch. do not appear to them to be discharged to oblige the people to produce their discharges."[3] The amount was afterwards reduced and apportioned, on collection, between the three years 1689 (19/4d.), 1690 (£3,289 6s. 5d.), and 1691 (£46,403 12s. 11½d.). The plan of recharging in full and then discharging on production of receipts was as sound as even modern taxing authorities can devise when the assessment books are burnt.

From the Battle of the Boyne, which was on July 2nd, 1690, until November, 1690, the Court of Exchequer was non-existent in Ireland. There had been some management of finances while James was in control; and later the post-war re-organisation was undertaken when William had enforced himself; but for seven months there was financial chaos, and the soldiers were in control and seized what they liked. Commissioners of Seizures were appointed by the English Privy Council, and they were given authority to appoint sub-commissioners to seize lands forfeited by rebellion. Their actions were arbitrary and uncontrolled. " There was no Checque on the Sub-Commrs for Seizures, who were most of them Suffering Protestants and might think it excuseable if they did help themselves on the Turne."[4]

The Revenue Commissioners still remained in existence, and in November, 1690, the Privy Council in England dismissed the Commissioners of Seizures and transferred their duties to the Revenue Commissioners. They were instructed to let the forfeited lands to the highest bidders. At the same time, the Court of Exchequer again commencing to function, an Exchequer order was issued commanding the persons who had acted as Commissioners or Sub-Commissioners of

[3] *Redesdale Papers*. B.M. Addl. 36651. Folio 7.
[4] Ibid. Folio 21.

Seizures to make returns of the lands they had seized to the crown. Only very inadequate returns were made under this order.

In November, 1691, the Lords Justices of Ireland ordered a conference between the Barons of the Exchequer, the King's Council and the Commissioners of the Revenue to advise on a means of dealing with the forfeited lands, as the confusion over claims was great, and everybody who had any influence was striving to possess immense estates. A new commission was appointed which endeavoured to introduce a show of legality and order by instructing the disbanded Commissioners and Sub-Commissioners of Seizures to make complete and accurate returns upon oath, and an attempt was made to recover from these persons lands which they had converted to their own use. The new leases were registered in the Auditor's Office in the Court of Exchequer, and gradually what was called " let by Custodiam " became the settled legal method of disposing of the forfeited estates. The Custodiam rents were rents reserved to the crown, payable by the custodee, and collected by process from the Pipe Office of the Court of Exchequer to the local sheriff.

The Report of the first Committee of Public Accounts was made on 23rd September, 1695, through Mr. Chancellor of the Exchequer to the House. The Committee had the advantage of the attendance (by Order of the House) of the Auditor-General, the Deputy Receiver-General, the Clerk of the Quit-rents, one of the Commissioners for forfeitures, and the Deputy-Remembrancer. They examined the Deputy-Receiver, the Clerk of the Pells, and the Chamberlains of the Exchequer who produced their books of account. They found irregularities of procedure in the Exchequer, due to the period of war, and they especially took notice of a warrant signed by the Baron de Ginkell, and " resolved, it is the opinion of this Committee, that the said General was imposed upon in the said warrant, and that the same was altogether irregular."[5] They found that

[5] Report 23 September, 1695. *Commons Journals*.

" the sum of £9,816 15s. 0d. was only pelled at two several times . . . which, in our opinion, was not pursuant to the antient methods of the Exchequer, for that each payment ought to have been pelled, as the payments were made respectively." As exceptional war measures, the Office of Pells in Ireland had been closed until 20th August, 1690; and the accounts were " stated " on oath to the Commissioners of Accompts in England and " allowed " by them. A warrant dated 11th March, 1690, was produced to the Committee of Public Accounts signed by the English Commissioners of Accompts requiring the Deputy Paymaster in Ireland to lay before them on oath the accounts and vouchers. Notwithstanding this, the Committee came to the resolution that " the said Paymaster-General and his said deputy ought to have pelled the several payments they made in this Kingdom, whereby it might have appeared what vouchers were for the same ". A letter signed by the King was also produced, commanding the stating of the accounts before the English Commissioners. The Committee's comment was " Upon this whole matter, it is the opinion of this Committee that the aforesaid letter doth not excuse or dispense with the non-pelling of the vouchers of the payments made out of the Treasury, since the Office of Pells hath been opened, which was in August, 1690; and that the not pursuing of the antient methods of the Exchequer, when the same might, and ought to, have been pursued, hath given great opportunity of fraud and deceit in the accompts of his Majesty's revenue ".

One cannot resist a feeling of pride in the excellence of this first report of a Committee of Public Accounts in Ireland.

A second report was submitted on 12th December, 1695. This dealt chiefly with the extraordinarily large balances due to the Exchequer by receivers and farmers. As an instance of the efficiency with which the Committee performed its duty, it traced all balances outstanding back to 1659. The aggregate of the balances outstanding amounted to £222,105. The resolution of the Committee was " that the ancient and usual methods of the Exchequer, of issuing process upon balances, where they stand in charge, have not been observed ". The House of Commons agreed to all the resolutions of its Committee of Public Accounts.

In opening the Session of 1697, the Lord Lieutenant, in his speech from the throne, said " There shall be laid before you, Gentlemen of the House of Commons, an account of what hath been received of the money given this session, as likewise what is now due to the army and civil list ".[6] From that time onward, it was the settled practice of the Chief Governor to make a similar reference to the public accounts in his speech opening a session, and the accounts were duly laid before the House of Commons as of right. As time went on, the Commons asked for more complete accounts, and while in no case was the audit as complete as that made by the Auditor-General, different branches of the administration were selected from time to time for a detailed examination. The principle was recognised in 1695 that the House of Commons was entitled to have all documents bearing on the national accounts.

The examination of the accounts was necessarily incomplete. The administration of the revenues was inefficient. Collectors were slow in returning their accounts, and were poorly supervised, though badly in need of supervision. The amount of money which reached the Exchequer was nothing like the amount collected from the taxpayers. The Irish civil service

[6] Parliament responded generously to this action of the executive. " Resolved also that whatsoever the severall funds may fall short of what they are computed at that the House do engage to supply their Defects. So that I suppose here's an end of our money matters." (British Museum Addl. MSS., Ireland, 1697-98 Vice Admiral of Munster, Vol. IV, No. 38150.) The manner in which parliament worked out the Estimates in 1698 is shown in Waller's letter of 11 October, 1698. The cost of the military list was £364,910, and of the Civil List £25,717, making a total of £390,627. To this was added the deficiency of 1697: " the revenue fell short of the Establishment year 1697, £22,946 "; giving a total of £413,573. From this was deducted (*a*) the actual net produce of the revenue to the end of midsummer 1698 (£254,594) plus (*b*) the estimated increase of revenue in the coming year (£20,000) giving a net amount of £138,979. On this the House of Commons voted increased taxes estimated to yield £138,979. (Ibid., folios 107, 109.)

was generally hostile to the legislature, inefficient, self-seeking and spiritless. The executive was weak in its control of a body whose chiefs were sycophants of itself.[7]

The Irish House of Commons, meeting infrequently, attempted to perform the work of supervision of the subordinate revenue officers; and made orders, for example, for the return of duplicates by local sheriffs and for prosecutions of defaulters. They constantly inquired into complaints brought against the customs officers. On 28th September, 1695, they received a petition from the Masters and Wardens of Trinity Guild, Dublin, " on behalf of themselves and the rest of the Brethren of the said Corporation, complaining of several illegal practices of the persons concerned in the Custom House, by exacting larger fees than are appointed by the book of rates ". As a result of their investigation into this matter, the House of Commons issued a Table of Fees to be taken by the Customer, the Surveyor-General of Customs, the Comptroller of Customs, the Searcher, the Packer and the Gauger in each district.

The executive does not seem to have regarded it as extraordinary to ask the legislature to carry out executive duties in revenue matters. In opening the Session of 1698 (27th September) the Lords Justices complained: " We must inform you, that there hath been so great remissness in the management of the present poll, that very little of that money is yet received," and the House of Commons replied: " And that his Majesty may effectually receive those aids already granted him by this Parliament, we shall take into our enquiry, through whose defaults or remissness the present poll hath been so slowly paid and answered into the Treasury " (1st October, 1698). It is sufficient to set out these quotations to show how great was the confusion, as modern eyes would regard it, between the

[7] Lecky *Ireland in the 18th Century*, Vol. I, p. 210. " From the very highest appointment to the lowest, in secular and sacred things, all departments of administration in Ireland were given out as a prey to rapacious jobbers."

duties of the executive and the legislature in the matter of control of the servants of government. It ought to have been a duty of the executive to administer the laws efficiently; it was a responsibility of parliament to see that the administration was efficient. That the executive should complain to the legislature of inefficiency in administration was undoubtedly a strange confusion of duties. Nevertheless, parliament had a right to examine into the administration, and this it did mainly through the agency of the Committee of Public Accounts. There was in the Irish parliament no system by which members could interrogate the Ministry by parliamentary questions.

The Committee of Public Accounts appointed by the parliament which met in the reign of Queen Anne was a worthy successor to its immediate predecessor. The first report was made on 12th October, 1703, and disclosed the fact that the Deputy Receiver-General (Sir William Robinson) had falsified his accounts by a sum of £103,368. The House of Commons passed a resolution " that the thanks of this House be given by the Speaker to the Committee, appointed to inspect and examine the publick accompts of the nation, for their great care, and faithful and diligent discharge of the trust reposed in them, whereby they have saved the kingdom the sum of £103,368 8s. 4d., which by misrepresentation was charged as a debt on the nation."[8]

The Committee made a second report on 19th October, 1703, dealing with pensions. Their report states that in the year 1702, pensioners residing out of the kingdom received £14,613 11s. 1d., and commented: " We know not upon what considerations the above pensions were granted."

As a result of the reports made by this Committee, the House of Commons took action in two directions.

[8] In " Some observations upon a letter lately published from *Somebody* to *Somebody*," i.e., from the Lord Lieutenant to the Lord Chancellor of Ireland in 1754, the statement is made: " In the year 1703, the last Duke of *Ormond* gave such Disgust to the Commons, by screening Sir *William Robinson*, and other Treasury Robbers, from Parliamentary Justice, that the *English* Ministry found it necessary to make a sudden change in the Government in order to get the common Business of Parliament quietly done." P. 22.

A special representation was made to the Queen on the distressed condition of Ireland. The higher state officials (who were politicals holding sinecures) were attacked. " The want of holding frequent Parliaments in your Majesty's Kingdom of Ireland has been a great encouragement to evil-minded men, who intend nothing but their own gain, though accompanied with the ruin and oppression of your Majesty's good subjects. Many civil officers are arrived at such a pitch of corruption, through hopes of impunity, as is almost insupportable; thereby getting vast estates in a short time in a poor country, and others in considerable civil employments, do dwell and reside for the most part out of the kingdom, thereby neglecting the personal attendance on their duties; whilst in the mean time their offices (which in effect are made mere sine-cures), are but indifferently executed, to the great detriment of your Majesty's good subjects, and the great failure of justice. So that we, your Majesty's dutiful subjects, are fully convinced, that nothing but frequent Parliaments, with a permission for them to sit and do the business of the nation, can prevent or reform so great and notorious abuses."[9]

The executive might now see the result of inviting parliament to supervise administration. In order effectively to do so, frequent parliaments must be held. By inviting it to check the excesses of the Irish revenue officers, the executive was placing in the hands of the parliament, a stick which it proceeded without delay to use; but it was not the main instrument of the parliamentary attack.

The House, in Committee of Supply, agreed to resolutions of an unusual nature, as another result of the report on pensions to absentees. These were in the form " that the pension of £..... per annum, granted to ....., is an unnecessary branch of the establishment." There were in all twenty-one such resolutions, and they were agreed to by the House of Commons. On 10th November, 1703, the Committee of Ways and Means proposed, as part of the fiscal scheme,

[9] 20th October, 1703.

a tax of 4/- in the £ on certain of these pensions;[10] and two days later an address was delivered to the Lord Lieutenant, asking that judges, Commissioners of Revenue, and other public officials should be compelled to attend to their duties in Ireland or be removed. It may be seen from these actions that the disclosures made by the Public Accounts Committee were at once considered by the Commons; in fact the entire operation, from the appointment of the Committee to the final action by the House of Commons, presents a model, which ought to excite the envy of present-day Parliaments. The Irish House of Commons took its Committee of Accounts seriously. It did not limit the discussion on their reports to one day in the session. The attack on absentee pensioners was the beginning of a campaign which ended only when the Irish parliament ceased to exist; and even then was only transmuted into an attack upon absentee landowners.

In the next session (1704/05) a Committee of 12 (quorum 9) was appointed to examine the public accounts, but to it were added " all merchants and bankers, that are Members of this House ". The Committee paid special attention to the Barracks accounts, and resolved " that the neglect of making up the accompts of the barracks yearly is prejudicial to the kingdom " (27th February, 1704). In their second report (5th March, 1704) they stated that they had received a guarantee that the barracks accounts would in future be made up each year, and had obtained explanations why this had not been done since May, 1703. They also got from the Lieutenant-General of the Army (and presented with their report) the orders and instructions issued by the Overseers of the barracks for the future management of the barracks.

The Committee appointed in the 1707 session numbered 47 members together with " all merchants, bankers, and accomptants, that are Members of this House ". Fifteen members were added to the Committee, and it proceeded, with its larger membership,

[10] 2 Anne, c. 4. The pensions amounted in the aggregate to £6,242.

to divide into sub-committees " to give the greater dispatch to that great affair committed to their charge ". Previous Committees had attacked parts of the national accounts, acting like sub-committees without any co-ordinating body to survey the whole field of expenditure. The present Committee entered into details, as clearly and as thoroughly as any modern Committee of Public Accounts would do, and at the same time made a general report on the system of public accountancy. One of their resolutions on this subject was " That the publick accompts laid before the House, and referred to this Committee, are in so confused a manner and method, that they create a very great trouble and difficulty, and no accompt brought to ballance; and though the publick officers have been called upon, and demanded why the accompts of the nation are not brought to a ballance, they say, *it is not their business;*" and they moved the House to approve the appointment of an officer whose duty it would be to balance the accounts and present them to the House suitably prepared. The result of this report was that heads of a bill " to audite and state the publick accompts of the kingdom " were introduced on 28th July, 1707. The Accomptant-General was given the duty of preparing the public accounts, and in subsequent sessions, a customary petition was one from this officer praying a recompense for this special service. The grant made for the preparation of the first accounts amounted to £300 " for his great exactness and dili gence in performing what was not incumbent on him by the duty of his office, but was by a direction of the House of Commons in a former Session of Parliament in the said Kingdom."[11]

Having dealt generally with the accounts, the Committee came to details. Gunpowder, they pointed out, had been purchased at £5 per barrel when the market price was not more than £3 14s. 0d. They checked vouchers, and examined the terms of public contracts; and, as far as they could, they seem to have performed

[11] From letter produced to Public Accounts Committee of 1709.

the work of a public auditor. The following example of their method is typical of the report: " Upon the letter mark'd number (1) we observe, that the sum of two hundred thirty-seven pounds fourteen shillings and six-pence, was laid out in purchasing a privateer the *Seaforth Prize,* and that hundred and ten pounds is charged in the article *infra* number (5) for fitting out the same, and it appeared to us that eighty pounds or thereabouts, was given by the City of *Dublin* for furnishing her with rigging, etc., and that she was after sold, by order of the Government, for one hundred pounds, which we do not find brought to accompt, but said to be expended for the use of the said ship before she was sold, nor was the rigging returned to the City, nor any recompense made to them for it, but it was said to be destroyed in a storm ".

They examined the stores of the arms and ordnance, a thing which modern Committees of Accounts do not do; and they found " that the regiments which come from England have commonly bad arms, which are exchanged for good arms out of the stores ". Regarding pensions, they reported " that it is the opinion of this Committee, that no pension be continued to any person, but to such who are resident in this kingdom ". On the subject of Military Contingencies, they resolved: " that all sums of money, payable for the future on the heads of the military contingencies, ought to be accompted for in the ordinary method of the Exchequer ". The House of Commons voted its thanks to the Committee of Accounts " for their great care, and faithful and diligent discharge of the trust reposed in them ".

This report was the most complete which had yet been presented. It resulted in tightening the control of the House of Commons over public expenditure. As yet only a limited part of the revenue was within the power of parliament, but in these early Committees of Accounts, a brave attempt was made to explore the dark parts of the national expenditure and to introduce some kind of orderly method. The House in Commit-

tee of Supply came to several resolutions regarding the responsibility for balancing the accounts and asked that the several accounting officers should be obliged to transmit to the Accomptant-General their accounts of receipts and amounts outstanding ("solvend and desperate debts"). These resolutions were not without a good effect. As time goes on, one notices that the reports on the Public Accounts become less critical. A stage was reached when the form was correct; expenditure was vouched; and adverse comment was unnecessary. No doubt, control was not by any means as effective as it is nowadays; but that was due to no lack of good-will and energy on the part of the Committees appointed to examine the accounts.

In his speech from the throne opening the session of 1709 the Lord Lieutenant referred to the votes of the House of Commons in the previous session: "And that you may have no cause to doubt or to complain in any particular, her Majesty hath also commanded me to direct the proper Officers, that a perfect state be laid before you of the revenue and of all accompts relating to the publick, which I have reason to hope and believe will be done after such a manner, as will be to every gentleman's satisfaction". A numerically strong Committee of 66 members (with merchant, banker and accountant members of the House) was appointed and the report on accounts was made three weeks after the opening of the session.

An important report was made by the 1710 Committee of Accounts as a result of which the House of Commons made an address to the Lord Lieutenant. It appears that a sum of £84,489 4s. 6½d. was in arrear by taxpayers and was returned by the proper officers as "desperate" or irrecoverable. The House considered that in these cases of arrear, while legal proceedings which ordinarily would be taken would result in the recovery of a certain amount, it would be wiser to compound with the individuals according to their means and avoid heavy legal expenses; and they advised the executive accordingly. "We humbly present to your Excellency, that according to the ordinary method of proceeding on recovery of debts due to the Crown, the expence will probably be greater than what will be received may countervail, few of the persons liable thereto, being able to make payment". The address continued with a suggestion that the Revenue Commissioners should be empowered, with the approbation of the Barons of the Exchequer, to compound with the debtors according to their ability to pay and with a due regard to the nature of the debt. By doing so "a manifest advantage will accrue to her Majesty, and the debtors be enabled and encouraged by their future labour and industry, to provide for their families, and become useful members in the commonwealth, which, by reason of their debts hanging over them, they are at present incapable of doing". This action of the House of Commons is of much historical interest. The British administrative system gives to the Treasury the power and the duty of sanctioning the writing-off or the reduction in necessitous cases of revenue debts. There was in Ireland in the 17th and early 18th century no counterpart of the modern Treasury Department and there was no discretion vested in the Barons of Exchequer or other members of the ancient Board of Accounts to write off revenue debts. Balances outstanding on collectors' accounts were brought into charge against them in the following accounting period. In this way the balances continued to increase, and on the death of a collector it was the rule rather than the exception to find large sums due to the state. As the security taken was generally inadequate, and process against the legal heirs would rarely have been productive, the amounts were then treated as irrecoverable and were included in the Public Income and Expenditure Accounts as a debt to the nation.

In many respects one may regard the Irish House of Commons as performing, or trying in the face of difficulties to perform, the duties now entrusted to the central finance department of the government. For example, in February, 1715, an order was made that all

officers of the revenue " are to give their constant Attendance at their respective Offices, from nine of the Clock to twelve in the Forenoon, and from two of the Clock till five in the Afternoon, and their Neglect therein is Remissness in their Duty, for which they ought to be removed from their Employments."[12]

The Committee of Public Accounts appointed in 1711 paid special attention to the army stores and inspected the old armoury near Dublin Castle, which they found " in a crazy condition, like to fall, and so leaky and moist, that the arms are continually to be cleaned, which occasions great trouble and extraordinary expense." They recommended that the various storehouses in the kingdom should be inspected, and repaired or rebuilt as found necessary. This Committee also examined the accounts of moneys disbursed for the use of 821 families (3,073 persons) of Palatines. The amount of subsistence paid from September, 1709, to July, 1711, amounted to about £16,000; an early instance of the " dole."

The modern Public Accounts Committee is guided by the rule that it should not entrench upon the government's domain by discussing or criticising policy; but that it should examine the details of official management and draw attention to wasteful or avoidable expenditure. Despite the absence of any such definite alignment in the time of the old Irish parliament, the Committees of Accounts acted wisely in restricting their comments to irregular expenditure, and wasteful management. In 1711 after examining the accounts of the construction of an arsenal, they reported " that a great many of the persons so employed about the said arsenal were unknown in this kingdom, of no visible substance here, and for aught appears to us unskilled in the said work ". They found " that great abuses were committed by some of the overseers, so appointed as aforesaid, by frequently taking horses out of tumbrills employed in that work, and using them in their own business, or for their diversions, at the same time

[12] *Commons Journals*, 2nd February, 1715.

charging the said horses and tumbrills to her Majesty's account, as if they had been the whole time employed in the work of the arsenal; by charging more tumbrills to account than were actually employed in the service; by sending labourers from the work to other places, and generally keeping three or four men employed in their own private business, yet charging them as labourers at the arsenal; by taking bribes to prefer some carmen before others; and by turning off strong and able horses, and keeping weak ones at work."

The reign of Queen Anne, during which two parliaments were held in Ireland, witnessed a great advance in parliamentary criticism of expenditure, and some small progress in control. The extra-Hereditary supplies were granted for two years ahead, until the fifth session of the first parliament (19th May, 1710), when supply was granted only for one year to 23rd June, 1711. In the following session a two-years' supply was voted. As the expenditure was increasing each year, the Hereditary Revenues were becoming more and more insufficient and frequent sessions of parliament became a necessity. The army expenditure was doubled between 1693 and 1699, while the civil expenditure increased by two-thirds. The total national revenue had to be increased accordingly, and between 1693 and 1700 it rose from £155,000 (British currency) to £460,000. As the House of Commons restricted the operation of new taxes to two years, it became necessary to summon parliament every second year. The more frequent sessions, combined with the control of the Commons over the new or " additional " duties as they were called, made it possible for parliament to exercise an influence on the administration of government never before, since Wentworth, known in Ireland. The growing independence of the cramped parliament was countermet by devices of the executive which were baneful, but not by any means extraordinary at the period. The bribery, direct and indirect, which was employed in Dublin in the reign of Anne and the two first Georges was not so

reprehensible as that used in a more enlightened day to effect the ruin of the Irish parliament.

One is struck with the keenness and directness with which the House of Commons seized its opportunities for improving the administration. The excellence of the work done by the Committees appointed to examine the public accounts seems quite extraordinary in a parliament of the seventeenth century. Their examination of the accounts was detailed and minute. " Detailed control like this was not dreamt of in the eighteenth century "[13] in England; but in Ireland, without much help from the administration, with unsatisfactory accounts, a control as detailed as any exercised by modern Public Accounts Committees was bravely attempted.

It is to be remembered that government expenditure in Ireland until the time of George I was confined to the payment of civil and military salaries and pensions. Government was, on the civil side, practically confined to the collection of the revenue. In so far as the people of Ireland were concerned, the main—indeed the only—beneficial function of government was the defence of the country. It was not until the House of Commons, realising the power of the purse, began to appropriate revenue to stimulate industry and commerce, that anything resembling the modern functions of government was performed. Imagine a present-day government without a department of agriculture, a department of education, a department of local government, a department of fisheries, a department of industry and commerce; having only a revenue department and the political functionaries of the state; and one obtains a proper notion of the civil government of Ireland up to the early part of the 18th century.[14] There was no Foreign

[13] *The Exchequer and the Control of Expenditure.* R. G. Hawtrey (1921), p. 11.

[14] Sir William Petty, writing in 1679, suggested as the functions of Government the following headings :—

" 1. Liberty of Religion and peace.
2. Peopling the Territoryes.
3. Multiplying the People.
4. Employing the Spare Lands.
5. Providing for Impotents.

Affairs department because the foreign policy of Great Britain was followed and the parliament of Ireland was informed of developments in foreign politics only when the executive required a Vote of Credit. Granting such conditions, it is easy to understand why the elaborate modern system of appropriation of public moneys was not needed. It would be impossible without some system of appropriation to deal with the complex expenditure of modern times. On the other hand, the 20th century system would have been absurdly cumbersome in the conditions of the period with which we are dealing. Audit, no doubt, and a proper supervision of the revenue collectors, were needed; and the Irish administration was, in both these respects, defective. Audit and supervision of the collectors and sheriffs are exactly the duties which the Irish parliament endeavoured most assiduously to perform.

Going rapidly over the reports of Committees of Public Accounts from George I to the Union, it is to be observed that in every session of parliament, the Committee was appointed. It became as much a part of the parliamentary procedure to appoint a Committee of Public Accounts as to discuss Supply and Ways and Means. When the parliament was adjourned before the Committee had had time to complete its work, it was ordered in 1713 " that the Committee, appointed to examine and state the publick accompts, do sit, not-

6. Securing Titles of Land.
7. Providing Stock for a Forain Trade.
8. Soverainty of the Seas, and of freight, fishing and Indies.
9. Regulation of Coynes.
10. Church Temporalities.
11. Lessening the Plague.
12. Adjusting of revenues.
13. War, peace and alliances, Intelligence.
14. Advancement of Arts.
15. Publiq Ornaments and Magnificence."

(Paper No. 1. "The King and His Four Councills (Chiefe, Privy, Cabinet and Comon) and the 3 armyes." *The Petty Papers*, Vol. I, p. 7.) Petty, in this, as in many other of his suggestions, was centuries ahead of his generation. The father of " political arithmetic," the inventor of index numbers, the foreshadower of the tank, was also a strong advocate of a Government Department of Eugenics ! His Ministry of Fine Arts and Ministry of Transport are not old-fashioned notions in the 20th century.

withstanding the adjournment of this House."[15] In 1715, it was made a Standing Order of the House of Commons " That no Money Bill be read in this House until the Report from the Committee of Accounts be first made " (17th May, 1715). From 3rd September, 1717, a copy of the public accounts was given to each member who asked for it.[16] From 27th November, 1745, the Committee was empowered to examine witnesses on oath. A similar request from the Committee when put to a division on 3rd November, 1737, was defeated by 61 to 87 votes.

The following resolutions of Committees of Accounts have been extracted in order to typify the work done by them.

12*th November,* 1733.—" That the Nation ought for the future to have Credit for the Amount of any Salary, or pay of every Office, Post and Employment, Civil and Military, during the vacancy of such Office, Post or Employment."

14*th November,* 1737.—" That the Saving to the Nation, during the Vacancies of the Civil and Military Officers, shall be hereafter inserted in the Publick Accounts, on the Credit Side, in separate Articles."

14*th November,* 1737.—" That the several general Articles of Rewards for Military Affairs, without specifying the particular service, under the Head of Military Contingencies, are not satisfactory to this Committee."

14*th November,* 1737.—" Resolved, That it is the Opinion of this Committee, that the not obliging Barrack-Masters to perform their Contracts, is a great Encouragement to the buying and selling the office of Barrack-Master, and the Cause of the exorbitant Prices usually paid for said office."

" Resolved, That it is the Opinion of this Committee,

[15] *Commons Journal,* 24 December, 1713.

[16] In 1725 a petition was received from the Clerks of the House for payment for their extraordinary trouble and expense in preparing copies of the accounts for members of the House.

that the buying and selling the Office of Barrack-Master is prejudicial to the Publick."

" Resolved, That it is the Opinion of this Committee, that the constant Exceedings on the Head of Barracks, is one great Cause of the Debt of the Nation."

14*th January,* 1746.—Thirty-eight Resolutions containing sound suggestions for the guidance of parliament and the government in improving the management of the barracks. The Committee found that although a Barrack-Master's Salary was £50 a year (and £80 in Dublin) the post was sold for as much as £1,800, being considered worth £300 a year. On this Report the House of Commons passed a resolution on 14th January, 1746, " That the Persons who advised the Government to contract for new Barracks since the Year 1731, acted presumptuously and in Violation of the Right of this House to advise in any Case which may create a new Expence to the Publick."

8*th November,* 1757.—" That no Article in the Public Accompts, of which any Doubt is conceived, ought to be allowed, unless the Committee be satisfied, that the sum mentioned in such Article has been expended for the Use of the Publick."

Several resolutions against pensions were agreed to by the House as a result of the disclosures made by this Committee.

16*th November,* 1763.—" That it appears to this Committee, that the Pensions placed upon this Establishment (exclusive of the French and Military Pensions) for two Years, from the 25th March, 1761, to the 25th of March, 1763, exceed the whole charges of the rest of the Civil List, £42,627 19s. 2d."

20*th November,* 1769.—The Committee showed that while in the two Years ended 25th March, 1769, the produce of the Hereditary Revenue and old Additional Duties increased by £25,269, the cost of collection increased in the same period by £29,899; so that there was a net decrease in the revenue of £4,630.

20*th November,* 1771.—This Committee made a close

examination of the securities taken from the collectors of revenue and showed that the total amount due from dismissed collectors was £33,000, of which nearly one-half was " desperate ".

15*th November*, 1777.—The following regulations for the Treasury in drawing up the Public Accounts were put forward by the Committee :—

1. That the Appropriated Duties ought hereafter to be stated each separately by itself, and not be blended with the other Duties, in stating the National Debt.
2. That the Revenues appropriated for Duncannon Fort should be stated in like Manner.
3. That the Loan Debt ought to be stated separately, and the Ballances thereon struck, and regularly carried forward.
4. The Debt of the Nation, exclusive of the Loan, ought to be separately stated.
5. That the total Debt of the Nation ought to be stated, by adding to, or subtracting from the Loan Debt, the Debt or Credit (as the Case may happen to be) exclusive of the Loan.
6. That the Accountant-General ought to set down as the two Years' Charge of King's Letters, the real charge thereof, and carry forward the Arrears thereon.
7. That the Accountant-General ought to range under the Head of King's Letters and Parliamentary Payments respectively, the same Articles which the Vice-Treasurers return under those Heads.
8. That wherever the Accountant-General differs in any Article from the Deputy Vice-Treasurer's Return thereof, he ought to state the Cause of the Difference.

In the last twenty years of the life of the Irish parliament, the reports became stereotyped, mainly statistical, with little comment or criticism. When the powers of parliament were strictly limited, it turned its attention to the public accounts and performed some excellent work, amazingly good considering the period. Later, when the power of the parliament was increased a hundred-fold, its attention was turned away from the dullness of treasury accounts to the more exciting pursuits of politics.

CHAPTER VIII

The Appropriation of Supply, 1753

The National Debt of Ireland dates from the year 1715. No doubt, in particular years before that time, deficits had occurred; but these were eventually met by means of increased taxation.[1] When the reign of George I opened in 1714, the Commons could look back on the reports of their Committees of Public Accounts to see surpluses year after year, which were brought forward as a credit to the nation. In 1715 a net deficit of £16,106 11s. 0½d. was reported. Parliament met on November 12th 1715, and a two years' supply to Michaelmas 1717 was voted. The outbreak of the Jacobite Rebellion in 1715 struck terror in the hearts of the Irish protestants, who looked to King William[2] and the Hanoverian succession as their great protection against another instalment of Stuart misrule. A generation later, the opposition in the Irish parliament, snubbed by the King and his British Privy Council, and deprived of their places by the Lord Lieutenant and

[1] The Irish parliament was particularly careful to avoid meeting deficits by borrowing, and went to extreme lengths to find fiscal expedients. Thus, in 1698, when it was necessary to meet a deficit of £139,000, it decided to resume all Quit Rents which had been granted to the subject since 1661, when the Quit Rents were first charged. From this drastic provision, after a long debate, it was decided to exempt all Protestants who had purchased their Quit Rents for a valuable consideration. Waller, the M.P. for Tralee, writing a description of the debate, said that some were for having the Quit Rents sold to raise money; others wanted to hold them, but to raise money on the security; while the majority wanted to have them treated as part of the standing revenue of the crown. (Letter of 1 November, 1698.) Writing two days later he added a postscript: "I had forgot to tell you that a Question was put whether the Quit Rents resumed be a fund for raising money, but it was carried in the negative." (*Brit. Museum Addl. MSS., Vice Admiral of Munster*, Vol. IV, No. 38150.) In addition to this the House of Commons voted a charge of six quarterly subsidies of land tax of £15,000 a quarter, amounting to £90,000. These were drastic measures for a parliament of landlords to take.

[2] In 1714 a proclamation was issued by the Irish Government for discovering the person who defaced the statue of King William at College Green (App. 23rd Report, Irish P.R.O.)

Lords Justices, drank their toasts in the following order: first, "the King and Royal family": second, "The Battle of Culloden"; third, "the Glorious and Immortal memory of the Great King William"; fourth, "May the Succession to the Crown be perpetual in the illustrious House of Hanover," and fifth, "Prosperity to Ireland." Then followed their toasts of grievances. "May the Nation never be purchased, nor bribed by its own Money"; and "A smart gale, and safe Passage, to the Lord Lieutenant".[3]

On 12th January 1716, the House of Commons passed unanimously a resolution "That whatever Forces his Majesty shall think fit to raise, or whatever Expence his Majesty shall think necessary for the Defence of this Kingdom, this House will enable his Majesty to make good the same." This was the first Vote of Credit passed in the Irish parliament and marks the beginning of the accumulation of a permanent national debt. During the debates on the proposal for Union, the case of Scotland was used as an argument in favour of the Union; but it was in 1715 that Scotland proved first a source of evil to Ireland by running into rebellion and frightening the loyal Dublin parliament into a national debt lest the rebellion should spread to Ireland. The Lords Justices stressed to the parliament the imminent danger that existed to the security of the existing order; and on 28th January 1716 the complete resolutions were moved and carried: "That whatever Sum or Sums of Money shall be advanced and paid into the Treasury by any Person or Persons, at the instance of their Excellencies the Lords Justices, or other Chief Governor or Governors of this Kingdom for the Time being, for the Defence of this Kingdom, shall be made good by this House, with legal Interest for the same, out of such Aids as shall be granted to his Majesty the next Session of Parliament." The Lords Justices thanked the House for their vigorous Resolution and expressed a hope that, by the blessing of God, they

[3] "A Collection of Forty-eight Original Patriot Toasts, Drank at a Select Assembly at Corke, the first of this instant, January, 1754."

should be able to defeat the designs against the Kingdom of Ireland of the Pretender and his adherents.

The total amount borrowed on the strength of this Vote of Credit was £50,000 (2 Geo. I. c. 7). The rate of interest was 8 per cent. payable half-yearly. In the next session (1717) the House of Commons called for a list of subscribers to the loan, and an account of how the money was spent; thus again, even in its moment of fear-inspired generosity, turning its by now masterhand to the intricacies of financial criticism and audit. There was no separate act passed authorising the borrowing of money on the credit of the nation. The statute 2 Geo. I, c. 7, provided that the principal and interest should be paid " out of the next aids to be granted by Parliament ". The Supply Act of 1719 (4 Geo. I, c. 2) granted further duties to meet the interest on the loan; " taking into our serious consideration that the debt remains still unpaid, which your loyal Commons chearfully and unanimously contracted the last session of Parliament ". These duties were not specially appropriated.

The national liability now consisted, to use modern terms, of £50,000 funded and about £16,000 floating debt. While the funded debt, upon which interest was punctually paid, remained at £50,000, the Exchequer deficits became increasingly troublesome, amounting in 1717 to £45,000; in 1725 to £69,000, and in 1727 to £77,000. The establishments were continually in arrear, and the House of Commons decided in 1729, when the funded and unfunded debt amounted to over £200,000, to make an addition to the permanent debt in order to bring the Exchequer into a solvent condition. The amount borrowed in 1729 was £150,000; bringing the total interest-bearing debt up to £200,000. The legal rate of interest had been reduced from 8 per cent. to 7 per cent. in 1722 (8 Geo. I, c. 13); and, following this, the rate of interest on the government debt was also reduced to 7 per cent. from 25th March, 1724. If the government creditor refused to accept this reduced rate, the Vice-Treasurer of the Exchequer was empowered to redeem his

bond at par and re-sell it with the lower rate of interest attached. In 1729, while the legal rate of interest remained at 7 per cent., the interest on the public debt was fixed at 6 per cent. on the £150,000 borrowed in that year, and reduced to 6 per cent. in the case of the original debt of £50,000. This was the first Loan Act proper, appropriating duties to a separate Loan Fund, and charging on these duties the interest of the debt and the liability of the principal. The Act (3 Geo. II, c. 2), after reciting that the debt of £50,000 still remained unpaid, stated that there was, in addition, a considerable arrear on the establishments which, without burdensome taxation, could not at the time be cleared. The Exchequer was unable to meet the debentures issued by the army paymasters as pay to the troops. The act provided that these debentures should be accepted as subscriptions to the loan in preference to cash subscriptions, and should be redeemed within two months of the date of issue of the loan out of the ready-money subscriptions (Sec. 4). The additional duties granted by the act were to be applied by the Vice-Treasurer in the first place to the discharge of the interest of the debt of £200,000; and any surplus remaining in the fund was to go towards liquidating the principal sum " and to no other use, intent or purpose whatever " (Sec. 11).

In 1731 the accounts again failed to balance by £136,000; and the loan was increased by £100,000, the rate of interest on the additional loan being 5 per cent. The authority for borrowing in 1731 was contained in a separate Loan Act (3 Geo. II, c. 2) by the provisions of which any surplus arising from the duties, which came to be termed the Loan Duties, was specially appropriated to redeem the debt. The act, however, contained no provision for keeping the proceeds of the Loan Duties separate from the general revenues.

In the next session, a separate Loan Act was again passed (5 Geo. II, c. 2). The £200,000 debt was still unpaid and the establishments were again in arrear. The act authorised the government to borrow up to £100,000, paying interest at 5 per cent. and the interest

on the entire debt was, from 25th December, 1731, reduced to 5 per cent., although no change had been made in the legal rate of interest which by a later act (5 Geo. II, c. 7) was reduced to 6 per cent. The Loan Act of 1731, in addition to appropriating the Loan Duties to the payment of the interest and capital of the debt, ordered a separate account to be kept of these duties as well as of other appropriated duties (Sec. 17); " And be it further enacted, by the authority aforesaid, that from and after the said 25th December, 1731, a separate and distinct account shall be kept by the proper officers, of the aids, duties, and taxes granted by this act, or any other act of Parliament now in force in this Kingdom, and appropriated to particular uses; and that the commissioners of his Majesty's revenue in their abstracts shall return an account of the several duties and taxes so appropriated; and that every collector and other receiver of the said duties and taxes do take a separate receipt for the same, when paid into his Majesty's treasury, which said receipt the vice-treasurer, or vice-treasurers, his or their deputy or deputies, is and are hereby required to give accordingly." A new provision was made in regard to the repayment of the debt out of the surplus of the Loan Duties (Sec. 15). When the surplus should amount to £5,000, the names of subscribers and the amounts held by them were to be drawn from " a box or urn " up to the amount of £5,000, and repayment was to be made to those whose names were drawn.

In the year 1733 the first repayment of debt was made when the sum of £17,300 was issued from the Exchequer. From this date various small reductions of the debt were made out of the surplus of the Loan Duties, bringing the total from £300,000 to £227,000 in 1741. At the same time the expenditure on the Civil and Military Establishments exceeded the yearly net revenue and deficits continued to accumulate. The Loan Duties could not be used to meet such deficits, having been specially appropriated to the service of the loans. In 1741 a further scheme of conversion was carried out,

while at the same time the national debt was increased[4] to meet the Exchequer deficits. £150,000 was borrowed at 4 per cent. and £125,000 of the old debt was reduced to 4 per cent. from 25th December, 1741, while the rate of interest on the balance remained at 5 per cent.

An unusual use of the ballot was adopted to divide the old loan into 4 and 5 per cents. The subscribers' names and amounts were placed in a box and drawn, up to an aggregate of £125,000; and the unlucky bonds drawn had their interest reduced to 4 per cent. If the owners objected, the Vice-Treasurer was empowered to purchase and re-sell. The permanent debt at this date proved to be £100,000 at 5 per cent. and £250,000 at 4 per cent., making a total of £350,000.[5]

In 1745 (19 Geo. II, c. 3) authority was given by parliament to add to the debt a sum not exceeding £70,000 at 4 per cent. " for providing arms for the use of the Militia of this kingdom, and for erecting a battery or batteries for the defence and security of the harbour of Cork ".

Between 1745 and 1749 the debt had been reduced by £30,000, and at 1749 consisted of £70,000 at 5 per cent., £250,000 at 4 per cent., and £58,500 at 4 per cent. borrowed under the authority mentioned in the preceding paragraph. The total debt was then £378,500. The Loan Duties had proved to be an inadequate, if steady, Sinking Fund; and the effect of the small reductions made out of the surpluses was counteracted by the continued deficits in the public accounts. The year 1749 witnessed a spectacular change. In the financial year 1750/51, the sum of £147,400 (Irish) appears in the Public Accounts as having been applied to debt repayment. This large amount was due to an exceptional surplus which arose in place of the deficits which for so many years had been the rule; and it opened a constitutional issue of much importance to the course of Irish financial government.

The Public Accounts at Lady-day, 1749, showed a

[4] 15 Geo. II, c. 2.
[5] See 17 Geo. II, c. 2.

surplus of £220,240, and the Committee of Ways and Means reported in favour of applying £70,000 to repay the 5 per cent. Loan, and £58,500 to repay part of the new Loan of £250,000 at 4 per cent. The House of Commons agreed, and instructed a Committee to prepare Heads, inserting a clause " for applying so much of the Ballance, remaining in the Vice-Treasurers Hands at *Lady-day* last, as shall be for that purpose necessary to discharge the sum of ....." (11th November, 1749). The Heads were duly presented two days later, and were sent to the Lord Lieutenant, on 14th November, 1749, for transmission to England. On 18th December, 1749, a bill was received back and given its first reading. At once, a Committee was appointed to compare the Transmiss with the Heads. No change was reported (no report was, in fact, made); and the bill rapidly passed through the customary stages and received the royal assent on December 23rd, 1749.[6] The preamble to the Heads ran: " Whereas, on the twenty-fifth Day of *March* last, a considerable *Ballance* remained in the Hands of the Vice-Treasurers or Receivers-General of this Kingdom, or their Deputy or Deputies, *unapplied,* and it will be for your Majesty's Service, and for the Ease of your faithful Subjects of this Kingdom, that so much thereof, as can be conveniently spared, should be paid, agreeably to your Majesty's most *Gracious Intentions* in Discharge of Part of the aforesaid national debt." The Irish Privy Council made no alteration in this form, nor did the Privy Council in England; and the five per cent. debt was liquidated and £58,500 of the four per cent. debt repaid.

It will be remarked that the preamble takes notice of his Majesty's most gracious intentions; and, when the question arose four years later as to whether the consent of the sovereign was required to enable a surplus to be used for debt liquidation, these words were explained and counter-explained by the two parties to the controversy. There is no evidence of any kind in support of the contention that the executive was asked by the legislature to express a desire or intention regarding the disposal of the surplus. The defenders of government in 1753 relied on the insertion of these words in the preamble as proof that the consent of the King was necessary. One writer says: " We do not find, in the Journals, after what manner *his Majesty's most Gracious Intentions* were signified to the House of Commons. But, it must be presumed, that they were some way made known, to, at least, some of the leading Persons in that Assembly, or those Expressions would not have been inserted in the Act of Parliament "; and " it is submitted to the Judgment of every impartial Reader, whether those Words, *agreeably to his Majesty's most Gracious Intentions* do not fully, imply his Majesty's *previous Consent, obtained.*"[7] This argument begs the question. The opposition advanced the more reasonable explanation that the obvious use of the surplus was to pay off the debt; and that the executive, without formality, readily concurred in the proposal, and the troublesome question of prerogative did not enter the mind of anybody. In any case, both sides claimed 1749 as a favourable precedent, though the evidence was on the side of the opposition and not of the government.

In opening the next session, on October 8th, 1751, the Lord Lieutenant in his speech from the throne used the following words which commenced the controversy: " I am commanded by the King to acquaint you, that his Majesty, ever attentive to the Ease and Happiness of his Subjects, will graciously consent, and recommends it to you, that such a Part of the Money now remaining in his Treasury, as shall be thought consistent with the publick Service, be applied towards the further Reduction of the National Debt ". The answer of the House of Commons, in the usual formal Address, was: " His Majesty's Gracious Recommendation, that a Part of the Money now in the Treasury should be

[6] 23 Geo. II, c. 2.

[7] *Some Observations relative to the late Bill for paying off the Residue of the National Debt of Ireland, etc.* Dublin, 1753. 2nd edition, pp. 25/26.

applied towards the Reduction of the National Debt, is a convincing Proof, if any were yet wanting that his Majesty is ever attentive to the Ease and Happiness of his People ". They did not refer to the " gracious consent," but only to the " recommendation ". The capable writer of a pamphlet published in Dublin in 1754[8] draws attention to this point, and states that the omission of any reference to the consent is a manifestation of disapprobation of the principle that the King's consent was required. " Whoever," he says, " is acquainted with Parliamentary Proceedings, knows, that Addresses ordinarily answer the Speech, Part by Part, and express a grateful sense of every Part, that they mean to shew by their future Acts, an Approbation of: But in Points wherein they cannot concur, they are and ever ought to be silent ".

The surplus in the Exchequer at Lady-day, 1751, amounted to £248,367, and it was decided by the House of Commons to apply £120,000 towards debt repayment. Since last session, the debt had been increased by £2,500 borrowed for the militia under 19 Geo. II, c. 3, making altogether £61,000 out of a possible £70,000. At the same time the Loan Duties had enabled a reduction of £15,000 to be made in the debt; so that the total outstanding at 1751 was £237,500 at 4 per cent. Heads of a Bill were prepared, read and delivered to the executive in the usual manner (November 13th, 1751). The preamble to the Heads omitted reference to his Majesty's consent, reading: " Whereas on the 25th of *March* last, a considerable Ballance remained in the hands of the Vice-Treasurers or Receivers-General of this Kingdom, or their Deputy or Deputies, and your Majesty, ever attentive to the Ease and Happiness of your faithful Subjects has been generously pleased to recommend it to us ....."

The bill sent from the Irish executive to London remained in this form; but the bill which reached the House of Commons on December 6th, 1751, contained

[8] " The Proceedings of the Honourable House of Commons of Ireland in Rejecting the Altered Money Bill, on December 17th, 1753, Vindicated. By Authorities taken from the *Law and Usage of Parliament.*" (p. 15.)

an alteration in the preamble from " pleased to recommend " to " pleased to say that you would consent, and to recommend it to us ". The Journals of the House of Commons show that the bill received its second reading on December 7th; was debated in Committee, and reported and engrossed on December 9th; and received a third reading and passed the Commons on December 10th. On December 19th it received the royal assent (25 Geo. II, c. 2). Here was a really good precedent for the executive. Again, the controversialists read from the action varied interpretations. To the defenders of the government, the precedent was plain. Their antagonists, however, among whom the Earl of Kildare played a prominent and dignified part, explained that the Commons were at the time most anxious to avoid anything in the nature of a constitutional crisis, as they were then fully occupied in examining into a charge of embezzlement of public funds by the Government Surveyor and Engineer-General (Nevill). This officer, who was a Member of the House of Commons, had powerful friends at court, the Lord Primate of Ireland (Stone) and the Secretary of State for Ireland (Lord George Sackville, the Lord Lieutenant's son) being among them; and the inquiry assumed all the aspects of a contest between the government adherents and the opposition, "a set of gentlemen, who modestly called themselves *The Patriots.*"[9] One is compelled to conclude that so long as the Patriots had a good *casus belli* with government, they regarded it as not very material whether it concerned the condemnation of a public official or the assertion of a public right. In any event, the opinion prevailed that the 1751 bill might, in view of the 1749 precedent on the side of the parliament, be allowed to pass; and so it did. The usual Committee of Comparison was not appointed, the Commons " vainly imagining, that the Alteration not appearing in the usual Parliamentary Method, upon the Face of the Journal, would not be another Day trumped up, to serve a purpose ".[10]

[9] Macartney, *Account of Ireland in* 1773, p. 36.
[10] p. 19 *Proceedings, etc.*

In opening the parliament in 1753 the Lord Lieutenant, again, in his speech, mentioned the consent with deliberate repetition, and again the Commons, in their reply, ignored the consent and thanked the King for his recommendation. The surplus amounted to £315,823, and the House of Commons appointed a Committee of six to draft Heads of a Bill to apply part of the surplus to redemption of the public debt.[11] The Committee considered the question of principle involved, and was equally divided, there being three in favour of inserting in the preamble an indication of his Majesty's prior consent, and three resolutely refusing to be a party to such action. In the result, the Heads presented to the House were introduced with a preamble which omitted both consent and recommendation, viz. : " Whereas on the 25th day of *March* last a considerable Ballance remained in the Hands of the Vice-Treasurers or Receivers-General of this Kingdom or their Deputy or Deputies ". This left it open to the House to include one or the other indication or both. The House did not alter the Heads, but ordered the Master of the Rolls to attend upon the Lord Lieutenant and desire him to transmit them into Great Britain in due form (14th November, 1753). The Lord Lieutenant and Privy Council of Ireland themselves made no change in the wording; but in transmitting the Heads to London they drew attention to the omission of any formula acknowledging the prior consent of the King. The bill was returned from England, with the following addition to the preamble : " And your Majesty, ever attentive to the Ease and Happiness of your faithful Subjects, has been graciously pleased to signify, that you would consent, and to recommend it to us, that so much of the Money remaining in your Majesty's Treasury, as should be necessary, be applied to the Discharge of the national Debt, or such part thereof, as should be thought expedient by Parliament ". At the same time the Privy Council of Great Britain wrote

[11] The members of the Committee were the Master of the Rolls, the Prime Serjeant, the Attorney General, the Solicitor General, Colonel John Bourke and Mr. John Gore.

to the Lord Lieutenant and to the Irish Privy Council the following letter : " After our very hearty Commendations to your Lordships.

Whereas in your letter transmitted to the Earl of H.....s, one of his Majesty's principal Secretaries of State, with the Heads of the Money Bills, which Bills you desire may be return'd in the usual form, Your Lordships Take Notice, that the Words inserted in the Preamble of the Bill, passed the last Session of Parliament, for the Payment of Part of the National Debt, relating to his Majesty's Previous Consent to the Application of Parliament of the Money then remaining in his Treasury, are omitted in the Bill now transmitted for the Payment of the Residue of the said Debt; which having been laid before his Majesty, and taken into mature Consideration, his Majesty, with the Advice of his Privy Council, has judged it necessary to cause Words of the like Import to be inserted in the present Bill. We do therefore, by his Majesty's Command, and in his Name, signify the same to his Grace, and to their Lordships of the Privy Council, that the taking Notice of his Majesty's *previous Consent,* in a Case of this Nature and Importance, is absolutely necessary for the Support of his Majesty's *Prerogative* and *Dignity,* and for the preserving the Regularity of the Proceedings of the Parliament of *Ireland,* whose just Rights and Privileges his Majesty is determined to maintain. And we are further to signify to you, his Majesty's Pleasure, that this letter be entered in your Books.

From the Council Chamber at St. *James's,* the 18th day of *November,* 1753.

Your Lordships very loving Friends."

(signed by 18).[12]

The altered bill was read for the first time in the House of Commons on 14th December, 1753, and for the second time on December 15th and was committed. A Com-

[12] No. 15 of " The Cabinet, containing a Collection of curious Papers, relative to the present political Contests in Ireland." London, 1754. Quoted in *Observations,* p. 33, and *Proceedings,* pp. 22-23.

mittee of Comparison was appointed on 14th December and they reported, on the following day, drawing attention to the addition made to the preamble. On December 17th the House in Committee reported " That they had agreed to the enacting Paragraphs of the Bill, but disagreed to the Preamble of the said Bill;"[13] and the House ordered " That the Bill be rejected ".

Defeated in parliament, the Government resorted to the use of a King's Letter to transfer the surplus to liquidate the entire outstanding national debt. There was therefore no Loan Act passed in the 1753 session and the Loan Duties lapsed.[14]

As remarked, the political disputants of the period and of later periods while agreeing as to the details of the history of the proceedings, which can be unravelled clearly enough, offer, according to their prejudices, different reasons for many of the actions taken. Lord Macartney follows one of the pamphleteers of the 1753 period in the line that the 1749 precedent arose because " the occasion was new, Gentlemen were at a loss to know in what manner the king's consent ought to appear ". Chisholm, in the official Return of Public Income and Expenditure from 1688, follows Macartney. In Lecky's view the proceedings were not " very interesting ", though he admits that the consequences were of some importance. Taken as an isolated instance of parliamentary encroachment on the prerogative of the crown, there is strong evidence on the side of those who regard the dispute as having been engineered by a factious opposition. In the light of previous parliamentary history, the rejection of the bill cannot be treated so lightly, and one's interest grows in the development as well as in its consequences. It was not without strong reason that a majority of the Irish parliament took so firm a stand, nor that, despite the solemn declaration of the King and Privy Council in England, some

[13] *C. J.*, Vol. I, p. 465. The voting was 122 for disagreement, against 117; majority 5.

[14] The next Loan Act was in the year 1759, when authority was given (33 Geo. II, c. 2) to borrow £150,000 at 4 per cent., and Loan Duties were again charged to meet the service of the debt.

members of the Irish Privy Council and men who held offices and pensions from the Irish Government used their influence to secure the rejection of the Bill and voted against it. The Prime Serjeant (Anthony Malone), we are told by a contemporary, exchanged " the poor pageant of a Serjeant's gown " for " the Praise, the Gratitude, and Admiration of an obliged People "[15] The literature of the day on the subject indicates the importance attached to the issue. When the bill was rejected, Dublin rejoiced, crowds formed a procession to conduct the opposition to their homes; and medals were struck to commemorate the event. One of the complaints of government adherents was that " the pompous, tumultuary ostentations, upon its being rejected, very much aggravate this case ";[16] while a satiric writer on the opposition side wrote: " How was my Soul grieved on the Seventeenth of *December,* to see the City, as it were, on Fire, with as many Bonfires as Chimneys, and as much Drink in every Street as would float the *Dorset* Galley;[17] and yet, among so many thousands of tipling, guzling, shouting *Rascals,* not a single *Breach of the Peace* committed, or one *Pane of Glass* demolished in the *Windows* of those you most abhor ".[18]

The subject of Consent was as important to the politicians of the period as the subject of the Oath of Allegiance at a much later date. The pamphlet literature on both subjects gives one much the same overwhelmed feeling so that one can sympathise with a writer of 1753 who complained to the Government party: " You have so shuffled the words Appropriation and Application, that you have fairly worn out their Meaning . . . as old Women mumble Charms over Children, under pretence of curing the Worms, but in Truth to cheat the Parents of their Money "[19]

[15] *The Conduct of a Certain Member, etc.*, p. 34.

[16] *Observations*, p. 35.

[17] i.e., bring the Lord Lieutenant back to England.

[18] *The Haberdasher's Sermon* (Dublin, 1754), p. 7.

[19] *A Letter from Dionysius, etc.*, p. 11.

The Irish parliament was prepared to accept a " recommendation " from the crown as within the royal prerogative. It declined to admit that the surplus could not be applied without the consent of the king. They were before their time.[20] The crown was prepared to give a general consent and to leave to the Commons the duty of deciding how much of the surplus should be applied to the particular purpose of debt redemption. The controversy is important chiefly because of the influence it had on the parliamentary appropriation of supplies.

At 1750, the revenue was derived from three main sources, Hereditary Revenue (" old " and " new " or that derived from the common law, and that derived from statute), Additional Duties (voted for two years) and Loan Duties (specially appropriated). Omitting the Loan Duties, the proportions of the revenue derived from the other two sources were, roughly, seven-tenths from the Hereditary Revenue and three-tenths from the Additional Duties. The Additional Duties were not appropriated. The dispute in 1753 turned on the authority of the executive and the legislature over the expenditure of the public funds. Since the Additional Duties were not appropriated and the Hereditary Revenue was outside the control of Parliament, the entire revenue formed a common fund from which the expenses of government were defrayed. The executive had absolute power to spend. The House of Commons had the right to inquire into the administration and to draw attention to wasteful expenditure. That was the case for the executive. To the Commons " it belongs, to inspect what have been the Issues of the several Funds granted—what Payments have been made—and to what Uses—and, to report the Balance ".[21] Later, though too near to the events to be an impartial historian, Lord Macartney wrote : " There can be no question of this redundance being the property of the Crown; for it arose from the exceedings of the hereditary revenue and of the additional duties which are granted to the king without any appropriation " (p. 31). It was agreed on all sides in 1754 that in addition to the ordinary constitutional right, vested in the King, of withholding his assent to any legislative proposals of parliament, common to the constitutions of Great Britain and of Ireland, the executive in Ireland had also a constitutional right of applying public moneys, not otherwise appropriated by parliament, to any purpose judged to be expedient. It was on the other hand conceded by the government that parliament had a right to call the administration to account not only for the manner in which they had administered the services of the state, but also for the nature of the services to which they had directed the public moneys to be applied. Granted these admissions, the chief importance of the struggle over the consent to dispose of the unappropriated surplus lies not so much in the matter involved in dispute at the time as in the lesson which it so clearly taught to the House of Commons. Repeatedly the Government debaters had stressed the importance to their argument of the fact that the additional duties had not been appropriated. It was obvious that by appropriating possible surpluses, the Commons could prevent a recurrence of the dispute. This, in effect, they proceeded at once to do.

One may inquire at this stage why it was that the Irish House of Commons did not attempt now to make a complete appropriation of supply. There were two difficulties. In the first place, only about thirty per cent. of the revenue was within the control of parliament. The following tabular statement, taken from the Report of a Committee appointed in 1757 " to enquire into the State and Management of the Revenue for twenty Years last past " gives, in Irish currency, the gross yield of the revenue, before deducting cost of management, from 1738 to 1757. The fourth column, " Net Receipt in Exchequer," is derived by deducting the figures of Cost of Management, shown separately in the Report :—

[20] See Article 37 of the Constitution of the Irish Free State and a similar provision in the Constitution Acts of all the overseas Dominions.

[21] *A Second Letter of the Tradesmen, Farmers, and the rest of the Good People of Ireland.* Dublin, 1754, p. 15.

Year ending at Lady-day	Hereditary Revenue	Additional Duties	Total	Net Receipt in Exchequer
1738	417,354	136,240	553,594	467,286
1739	408,297	136,533	544,830	457,001
1740	392,817	121,434	514,251	428,537
1741	400,865	129,899	530,764	446,517
1742	390,924	124,752	515,676	429,052
1743	409,438	133,576	543,014	460,251
1744	409,308	140,031	549,339	461,927
1745	402,677	137,072	539,749	452,160
1746	380,855	126,127	506,982	419,365
1747	388,252	130,603	518,855	434,152
1748	427,548	142,447	569,995	487,350
1749	455,805	147,760	603,565	516,409
1750	539,351	187,724	717,075	638,433
1751	520,643	178,738	699,381	600,829
1752	513,125	167,192	680,317	589,183
1753	533,938	182,365	716,303	627,047
1754	585,293	193,022	778,315	683,745
1755	542,260	174,959	717,219	625,335
1756	499,528	165,539	665,067	572,997
1757	455,141	157,030	612,171	517,553

The greater difficulty was due to the lack of a proper system of accountancy, which prevented any appropriation of the items in the Civil and Military lists.

In order to obtain a proper notion of the financial administration in Ireland in the middle of the 18th century, it is necessary to understand that the amounts paid into the Exchequer were net, after deduction of the salaries on the revenue establishment (including the salaries of Hearth-Money Collectors), Incident Charges (which included the expenditure for revenue offices, etc.) and Premiums to officers, Repayment of Duties, Portage Bills (an allowance to Ships-Masters of 1 per cent. of the Customs Duty charged on their incoming cargoes in order to encourage them to make a true return of the value of their importations) and Drawbacks. This practice was doubtless as convenient and as economical then as it is now, but in the absence of the present adequate checks on expenditure, it gave scope for extravagance and worse.

The net amount received in the Exchequer is what appears in the Public Accounts of the period. The state expenditure, other than that disbursed in the collection of the revenue, was divided into two categories called the Civil List and the Military List. The Civil List, although the historical half-parent of the modern British Civil List (of which there is no counterpart in the Irish Free State) was an entirely different category of expenditure from what is now called the Civil List, and included all the civil expenditure of the state. In Ireland, the authority for expenditure was derived not only in theory, but in practice, from the King. A new King coming to the throne issued a Royal Sign Manual Warrant authorising certain annual expenditure in Ireland, under the two heads, Civil and Military. The Warrant detailed the items of expenditure, as the present-day Appropriation Act does; and, the analogy again identical, the amount authorised could not be exceeded except by authority of a fresh Warrant. The Warrants authorised expenditure in the Civil List under the headings :—

Court of Exchequer.
Court of King's Bench.
Court of Chancery.
Court of Common Pleas.
Officers attending the State.
Incidents.
Perpetuities.
Concordatum.
Pensions.
French Pensions.
Commissioners of Appeals.

Other headings appropriate to necessities at certain periods might be cited, but the above list gives the main recurring classes of expenditure. The Military List was divided into the following heads :—

Officers.
Horse.
Dragoons.
Foot.
Garrison Officers.
Contingencies and Incidents.
Additional Pay at Dublin.
Barracks.
Battle-axe Guards.
Military Pensions.
Half-pay.
Officers' Widows.
Ordnance and Artillery.

The aggregate amounts authorised at the accession of the three first Georges were[22] :—

[22] *P. I. & E. Accounts*, 1688-1869 (Chisholm), Appendix 13, p. 398, etc.

	Civil List	Military List.
George I. from 24/8/1717	£ s. d. 49,433 13 10	£ s. d. 348,818 5 2
George II. from 25/10/1727	£ s. d. 84,588 8 4	£ s. d. 362,220 19 9
George III. from 25/3/1763	£ s. d. 111,827 11 7	£ s. d. 491,178 2 10

This seems an excellent method of appropriating supplies at a time when the royal prerogative was strong. Unfortunately there was a simple method of exceeding the expenditure so authorised. The authority for going beyond the limits laid down in the Royal Warrant given at the beginning of each reign, was a King's Letter. The King's Letter was issued at any time and was as complete an authorisation for expenditure as the original Warrant. The form of a King's Letter was usually, after reciting the relevant facts of the particular measure, as follows : " Our Will and Pleasure therefore is, and we do hereby direct, authorize, and command that, etc ". " This shall be as well to you as to our Lieutenant, Deputy or other Chief Governor or Governors of that our Kingdom, for the Time being, and also to the Commissioners of Accounts, the Vice-Treasurers, Receivers-General, and Barons of the Exchequer, Auditors-General, and all others herein concerned, a sufficient Warrant. And so we bid you heartily farewell "[23] It was impossible, therefore, for parliament to know beforehand what new charges would arise on the establishments, because the executive had a perfectly free hand to create fresh expenditure, was irresponsible to the legislature, and relied on the usual resources of a corrupt government to obtain fresh taxes to meet the growing expenses. The greater part of the Irish expenditure was defrayed out of a fund over

[23] pp. ccccxxxvii, etc., of Appendix, *Journals of House of Commons*, Vol. 8 (22/10/1765 to 2/6/1772).

which parliament had no control. The other part of the revenue was, as its name " Additional Duties " connotes, a supply to make good the deficiency between the perpetual revenue and the state expenditure. All the duties went into the same general fund. Parliament was in fact under severe restrictions and limitations in the matter of finance since the surrender of 1662. It realised its powerlessness; and if it sometimes crowed like a cock, it knew that it was only a capon. It is not difficult to understand why appropriation of supplies, practised in the British parliament since 1692, was not adopted in Ireland at the date, fifty years later, which we have now reached.

The Public Accounts tell us that the Commons, after their defeat in 1753, commenced at once to appropriate to specific purposes part of the supplies granted to them. They had previously made some small charges on the additional duties. The earliest of these arose in 1697, when £6,000 was given to the executors of Sir Audley Mervyn, decd., who had been Speaker in the House of Commons from May 8th, 1661, to the end of the parliament in 1666.[24] The Commons had addressed the executive in his favour in 1666, but nothing came of it, and it was not until 1697 that the amount was specifically charged in the Money Bill. In the same parliamentary session a special grant of £25,000 was voted for the construction of barracks, because the soldiers were being billeted on private persons and the practice had grown intolerable.[25] These were isolated grants, and did not foreshadow any intention of parliament to appropriate supplies. In 1698, after voting the taxes of the year, the House of Commons made an address to the government to apply £3,000 of the sum given, towards building additions to Trinity College;[26] but did not actually saddle the taxes with this grant. Prior to 1753, amounts, comparatively small in the aggregate, were granted to public bodies and private individuals at the instance of the House of Commons. These were given

[24] See p. 122.

[25] See *British Museum Addl. MSS.* 38150, folio 59. Captn. James Wall, M.P. for Tralee, to Hon. Edward Southwell.

[26] Ibid., folio 125, postscript.

either in the Supply Act as a charge on the general revenues, and were made payable for one year or at most two; or else, by special act of parliament, for a number of years. The quasi-permanent grants were only rarely met by special taxes; the general practice was to charge them on the revenue before it reached the Exchequer. The annual and biennial grants were charged on the Additional Duties. These commenced (apart from the isolated grant mentioned) in 1721, on a small scale. Before that date, sums were charged, but they were confined to payments to officers who performed special duties for the House of Commons, preparing the public accounts, drafting the Books of Rates for the guidance of customs officers and the public, and assisting the Public Accounts Committee. Beginning with the year 1721, the following account will prove helpful as giving the facts from which one may later be permitted to draw conclusions. The amounts are taken from the statutes, and are given for each session until 1765, after which statements are given only for the years 1775, 1785, 1795, 1799, and 1800. For the years 1795, 1799, and 1800, the amounts are for a single year; and for earlier years the appropriation is spread over two years.

Year	Amount	Statute	Beneficiary and Purpose of the Appropriation
1721	1,500	8 Geo. I, c. 1	Trustees of Linen Manufacture
	1,060	do.	do. do.
1723	1,000	10 Geo. I, c. 1	Thomas Burgh " for inventing and publishing a new method of ascertaining the contents of any survey."
	2,000		Subscribers for making the River Lagan navigable, to be repaid to Government " out of the moyety of the clear profits of the said navigation."
	1,500		Trustees of Linen Manufacture.

Year	Amount	Statute	Beneficiary and Purpose of the Appropriation
1723 Contd.	4,000	10 Geo. I, c. 1	Trustees of Linen Manufacture.
	1,000		(Not exceeding) to trustees to build a chapel for officers and soldiers in the barracks of Dublin.
1725	4,000	12 Geo. I, c. 1	Per annum for two years. Trustees of Linen Manufacture.
1727	6,000	1 Geo. II, c. 4	Building a new Parliament House.
	4,000		Trustees of Linen Manufacture
1729	4,000	3 Geo. II, c. 1	Linen Trustees.
	10,000		Building a new Parliament House.
1731	4,000	5 Geo. II, c. 1	Linen Trustees.
	200		Governors Blue-Coat Hospital.
	70		Employees of Blue-Coat Hospital (chaplain, agent and steward).
1733	8,000	7 Geo. II, c. 1	Linen Trustees.
1735	8,000	9 Geo. II, c. 1	Linen Trustees.
1737	8,000	11 Geo. II, c. 1	Linen Trustees.
	5,000		Hugh Boyd to make a harbour at Ballycastle, Co. Antrim.
	500		Thomas Slater to build a mill for manufacturing paper.

Year	Amount	Statute	Beneficiary and Purpose of the Appropriation
1739	8,000	13 Geo. II, c. 1	Linen Trustees.
	5,000		Hugh Boyd to complete Ballycastle Harbour.
	4,000		Governor and Company for carrying on the Cambric manufacture, Dundalk.
	500		To enable Lieutenant Samuel Chaplin to prosecute the discovery he has made of a whale-fishery on the west coast of Ireland.
1741	8,000	15 Geo. II, c. 1	Linen Trustees.
	540		Linen Trustees.
1743	8,000	17 Geo. II, c. 1	Linen Trustees.
1745	8,000	19 Geo. II, c. 2	Linen Trustees.
	500		For a new roof to Saint Andrew's Church, Dublin.
	10,290 19s. 6½d.		Hugh Boyd to complete Ballycastle Harbour.
1747	8,000	21 Geo. II, c. 1	Linen Trustees.
	500		For a colliery at Rathmeaden, Co. Meath. Paid to four Trustees.
1749	8,000	23 Geo. II, c. 1	Linen Trustees.
	200		John Roche for manufacture of hardware.
	200		Francis Joy for manufacture of paper.

Year	Amount	Statute	Beneficiary and Purpose of the Appropriation
1751	8,000	25 Geo. II, c. 1	Linen Trustees.
	200		Joseph Sexton for manufacture of paper.
	300		Robert Rainey "for the experiment and discovery he has made in making compleat malleable iron from pig metal with turf-coal."
1753	8,000	27 Geo. II, c. 1	Linen Trustees.
	4,000		His Grace George, Lord Archbishop of Armagh; the Lord Archbishop of Tuam; the Right Hon. Arthur Hill; the Hon. Rev. Charles Caulfield; and the Rev. Thomas Staples for a colliery business at Dromglass, Co. Tyrone.
	500		Joseph Sexton for a paper factory.
	300		William and Thomas Slator for a paper factory.
	500		Paul Seguin the Younger and Peter Dacyx for a silk manufacture.
	1,000		Richard Griffith for a damask factory.
	300		Robert Rainey (as in 1751).
	1,000		Henry Delamain the Younger for manufacture of delft-ware
	10,000		Lord Mayor, etc., of Dublin to rebuild Essex Bridge.
	10,000		Lord Mayor, etc., of Dublin to finish wall on south side of the river Anna Liffey, commonly called the Ballast-Office-wall.
	2,000		Governors of Workhouse, Dublin, to pay off debt.
	500		Vicar and Church-wardens of Saint Marks, Dublin, to complete their church.

Year	Amount	Statute	Beneficiary and Purpose of the Appropriation
1755	8,000	29 Geo. II, c. 1	Linen Trustees
	10,000		Corporation for inland navigation, to make River Nore navigable.
	20,000		Corporation for inland navigation, for works from Dublin to the Shannon.
	4,000		Robert Needham for making the River Newry navigable.
	800		Thomas Barbon and Beverly Usher to make an aqueduct in Waterford.
	500		Vicar, etc., St. Mark's Church (as before).
	500		Vicar., etc., St. Catherine's Church for re-building of church.
	2,000		Lord Mayor, etc., Dublin (Essex Bridge).
	10,000		Lord Mayor, etc., Dublin (Ballast-Office-wall).
1757	8,000	31 Geo. II, c. 1	Linen Trustees.
	17,000		Inland navigation.
	5,000		Incorporated Society for promoting English Protestant schools in Ireland to build a nursery in each Province.
	7,000		Incorporated Society for promoting English Protestant schools in Ireland for general uses.
	1,000		Governors of St. Patrick's Hospital, Dublin.
	2,000		Sir Ralph Gore and Richard Dawson, to build a church, parish of St. Thomas, Dublin.
	1 000		Vicar, etc., St. Marks to build galleries and a steeple.

Year	Amount	Statute	Beneficiary and Purpose of the Appropriation
1757 contd.	500	31 Geo. II, c. 1.	Inland Navigation.
	6,000		Hospital for relief of poor lying-in women in Dublin.
	2,000		Bartholomew Mosse, master of lying-in hospital, as a personal gratuity.
	5,000		To build pier at Dunleary.
	4,000		Wm. Deane, Hugh White and Company for an unnamed manufacture in Dublin.
	500		Jonathan Siffon of Lucan, "to re-imburse him for the expences he has been at in repeated tryals, in order to bring the manufacture of printing linen to a further perfection."
	300		Francis Ozier, Dame Street, Dublin, for silk weaving.
	300		Robert Randall, Dublin, for paper manufacture.
	500		Robert Calderwood and Joseph Weld for gold and silver thread manufacture.
	200		William Byrne, damask factory.
	200		Michael Mc Daniel, paper factory.
	4,000		Thomas Wise for copper, lead, brass, iron and hardware manufactures.
1759	8,000	33 Geo. II, c. 1	Linen Trustees.
	5,000		Lord Mayor, etc., of Dublin (Ballast-Office-wall).
	2,000		To twenty-one persons to clear the River Barrow of obstructions.
	4,000		Inland Navigation.

Year	Amount	Statute	Beneficiary and Purpose of the Appropriation
1759 contd.	4,000	33 Geo. II, c. 1.	Inland Navigation.
	1,000		Sir R. Gore, etc., for finishing the church in the parish of St. Thomas.
	4,000		Incorporated Society for English Protestant schools.
	3,000		Dunleary pier.
	4,000		Inland Navigation.
	3,000		Lying-in Hospital.
	1,000		Jane Mosse, widow of Bartholomew Mosse (see ante).
	1,000		Vicar, etc., Saint Catherine's Church, Dublin.
	2,000		Inland Navigation.
	10,000		Inland Navigation.
	1,500		Governors of Cork Workhouse.
	2,500		Inland Navigation.
	3,500		For widening Baal's-Bridge, Limerick.
	2,000		Inland Navigation.
1761	8,000	1 Geo. III., c. 1.	Trustees Linen.
	1,000		Sir Ralph Gore, etc., for St. Thomas's Church.
	10,000		Inland Navigation.
	3,000		Dunleary Pier.
	12,000		English Protestant schools.
	1,000		Saint Catherine's Church.
	500		Aqueduct in Waterford (Thomas Barbon and Rev. Dr. Edward Lyndon).
	2,000		Navigation River Barrow.
	2,000		Inland Navigation, River Boyne.

Year	Amount	Statute	Beneficiary and Purpose of the Appropriation
1761 contd.	1,500	1 Geo. III, c. 1.	Thomas Eyre and George Hamilton for extending the pier of Balbriggan in the Bay of Skerries.
	4,000		To Mayor, etc., Cork, to clean Cork Harbour.
	4,500		For Baal's Bridge, Limerick.
	8,000		Inland Navigation.
	1,850		Inland Navigation.
	2,500		Inland Navigation.
	5,000		Lord Mayor, etc., of Dublin (Ballast-Office-Wall).
	4,250		Dublin Workhouse.
	3,000		Lying-in Hospital.
	4,000		Inland Navigation.
	3,000		Inland Navigation.
	1,000		Jane Mosse (as before).
	500		George Semple, special grant *re* engineering works on Essex Bridge, Dublin.
	2,000		Arthur Mervyn, to finish mill and granaries at Naal, Co. Meath.
	1,000		William and Samuel Colvill and Arthur Bryan, to finish a dry-dock, North Wall, Dublin.
	2,000		Dublin Society, for encouragement of husbandry.
	10,000		Dublin Society, for premiums.
1763	8,000	3 Geo. III., c. 1.	Linen Trustees.
	26,500		Inland Navigation (various grants, here aggregated).

Year	Amount	Statute	Beneficiary and Purpose of the Appropriation
1763 contd.	1,500	3 Geo. III, c. 1.	Cleaning Cork Harbour (as before).
	1,500		Balbriggan Pier (as before).
	1,000		St. Patrick's Hospital.
	1,000		Dunleary Pier (as before).
	4,000		Ballast-Office-Wall (as before).
	1,000		Dry-dock at North Wall, Dublin (as before).
	1,000		Lying-in Hospital.
	1,000		Minister and church-wardens, St. John's, Dublin, to rebuild their church "on account of the inability of the parishioners of the said parish to rebuild the same."
	12,000		English Protestant schools.
	1,000		To erect warehouses, etc., in connection with whale-fishery on North West coast.
	1,000		Vicar, etc., St. Mark's Church.
	800		To two persons "to reimburse them for the losses by them sustained by the tumultuous proceedings of the late mobs."
	340		To five persons, for widening passage from Anglesea Street to College Green, Dublin.
	3,771		Dublin Workhouse.
	3,000		Hugh Boyd, to repair Ballycastle Harbour and keep it in repair for 21 years.
	2,000		Dublin Society, to promote agriculture.
	8,000		Dublin Society, to be spent as directed by Parliament (see 3 Geo. III., c. 14).
	5,000		To Commissioners for making a street from Essex Bridge to Dublin Castle.

Year	Amount	Statute	Beneficiary and Purpose of the Appropriation
1765	8,000	5 Geo. III., c. 1.	Linen Trustees.
	4,000		To Speaker, "to enable him to maintain the state and dignity of his office."
	3,752		Balbriggan Pier.
	19,655		Inland Navigation (grants aggregated).
	2,414		Wicklow Harbour.
	12,000		English Protestant Schools.
	2,500		Works in Limerick City.
	4,000		Ballast-Office-Wall.
	2,497		Dublin Workhouse.
	4,253		Dublin Workhouse.
	1,000		St. Patrick's Hospital.
	2,000		Dublin Society.
	8,000		Dublin Society.
	2,000		Lying-in Hospital.
	3,000		Cleaning Cork Harbour.
	1,600		Rt. Hon. Francis Andrews, for widening quay at Londonderry.
	1,200		John Blackwood, to build a pier at Killileagh, Co. Down.
	1,500		Trustees, to deepen river in Waterford.
	1,500		Dunleary Pier.
	7,890		Dublin Corporation, Inland Navigation, Dublin to Ballyfarnham.
	1,359		Hon. Hungerford Skeffington and Samuel Bristow, for navigation works, Co. Antrim.
	1,000		Maurice Fitzgerald, for making a quay at Dingle.

Year	Amount	Statute	Beneficiary and Purpose of the Appropriation
1765 contd.	4,000	5 Geo. III, c. 1.	Hon. John Lysaught, Richard Townshend, and others, to repair bridges in Cork destroyed by the late extraordinary floods.
	2,000		Theophilus Jones, for a colliery at Munterkenny, Co. Leitrim.
	600		Sir Kildare Dixon Burrowes and Arthur Pomeroy, for repairing bridges in Kildare.
	3,000		To trustees, to build a hospital for soldiers' children.
	2,000		To trustees, to build a marshalsea for security of prisoners.
	1,300		To trustees, to erect a pier in Sligo Harbour.
	476		To trustees, to re-roof parish church of Athlone.
1775	4,000	15 & 16 Geo. III., c. 8.	Speaker.
	8,000		Linen Trustees.
	387		Elizabeth Cooper, compensation for house pulled down for public works.
	12,500		English Protestant Schools.
	1,500		Lord Mayor, etc., Dublin (Ballast-Office-Wall).
	10,000		Dublin Society.
	500		Dr. Achmet, building public baths, Dublin.
	1,500		Trustees, to complete new circular road, Dublin.
	1,000		Trustees, to improve Cork Harbour.
	10,000		Governors of Foundling Hospital and Workhouse.
	3,400		Benjamin Houghton, for his great services to the public.

Year	Amount	Statute	Beneficiary and Purpose of the Appropriation
1775 contd.	1,000	15 & 16 Geo. III, c. 8.	Company of Undertakers of Grand Canal.
	3,700		To complete the Marshalsea.
	1,000		Daniel De Lacherois, Ponsonby Boyd, and Robert Kyle, for pier, Donaghadee.
	500		Hampden Evans and Joshua Davis, for pier, Portrane.
	300		John Dempsey, pier, Loughshinny.
	300		Barnaby Scott, compensation for losses in a riot.
	200		Thomas Johnston, "towards repairing the losses that he has sustained in endeavouring to improve the breed of the cattle of this country."
1785	20,000	25 Geo. III., c. 1.	His Majesty, for the militia (clothing, arming and maintenance).
	4,000	,,	Speaker.
	10,000	,,	Linen Trustees (in lieu of £10,000 formerly granted from the Tea Duties).
	4,000	25 Geo. III., c. 12.	Linen Trustees.
	20,000	25 Geo. III., c. 14.	Fisheries.
	9,000	25 Geo. III., c. 16.	Protestant Charter Schools.
	8,600	25 Geo. III., c. 22.	House of Industry, Dublin.
	1,000	25 Geo. III., c. 23.	Governors of Hibernian School.
	3,000	25 Geo. III., c. 24.	To build further offices for public records, etc.
	1,000	25 Geo. III., c. 25.	Hibernian Marine Society.
	5,000	25 Geo. III., c. 26.	Board of First Fruits, to build and repair churches.
	5,000	25 Geo. III., c. 27.	Dublin Society.

Year	Amount	Statute	Beneficiary and Purpose of the Appropriation
1785 contd.	10,000	25 Geo. III., c. 29.	Foundling Hospital and Workhouse.
	20,000	25 Geo. III., c. 48.	Trustees, to pay bounties on the home sale of Irish manufactures of wool, cotton, thread, kentings, spa cambric, iron and copper, and silk gauzes.
	5,000		Trustees, to distribute spinning wheels, reels, looms, jennies, and carding machines.
	4,000		Trustees, to pay apprentice fees to Protestant tradesmen for taking children from the Charter School or the Foundling Hospital.
1795	41,991	35 Geo. III., c. 5.	Hospitals and Schools (Protestant Schools, Foundling Hospital, House of Industry, Westmoreland Lock Hospital, etc.)
	21,600		Linen Trustees.
	5,000		Board of First Fruits, to build and repair churches.
	5,500		Dublin Society.
	5,000		Corporation for paving, cleansing and lighting Dublin.
1799	2,520	39 Geo. III., c. 7.	To various French ministers, chaplains, etc.
	832		Local Commissioners of River Lagan navigation in lieu of the former special excise duty in the Lisburn district.
	21,600		Linen Trustees.
	5,000		First Fruits, for churches.
	5,500		Dublin Society.

Year	Amount	Statute	Beneficiary and Purpose of the Appropriation
1799 contd.	10,000	39 Geo. III, c. 7.	Corporation for paving, etc., Dublin (in lieu of like sum formerly paid from the carriage duty).
	5,000		Do.
	48,197		Hospitals and Schools, various.
1800	2,520	40 Geo. III., c. 3.	To various ministers and chaplains.
	832		Lagan navigation (as before).
	5,000		To rebuild St. George's Church.
	21,600		Linen Board.
	5,000		Board of First Fruits.
	5,500		Dublin Society.
	10,000		Corporation for paving, etc., Dublin.
	4,500		Commissioners, for making wide and convenient streets in Dublin.
	49,905		Various schools and hospitals, viz. :—
	13,000		Protestant Schools.
	11,707		House of Industry.
	9,300		Foundling Hospital.
	8,000		Maynooth College.
	4,898		Westmoreland Lock Hospital.
	2,000		Hibernian School.
	1,000		Hibernian Marine Society.
	10,000	40 Geo. III., c. 60.	Dublin Society.
	300		Association for discountenancing Vice.
	230,000		For suffering loyalists.
	500,000		To Government for the defence of Ireland.
	7,500		To discharge debts of churchwardens of the late watch establishment.

Year	Amount	Statute	Beneficiary and Purpose of the Appropriation
1800 contd.	1,000	40 Geo. III, c. 60.	To Lords of Treasury, to work a gold-mine in Co. Wicklow.
	1,000		Royal Irish Academy.
	900		To Henry Ormsby, marshal of the marshalsea, compensation for rents and fees due to him by insolvent debtors of which he had been deprived by acts of parliament in favour of these debtors.
	500		To Female Orphan House in the circular road, near Dublin.

Until 1753 the grants were comparatively small. Continuous assistance was given to the Trustees of the Hempen and Flaxen and Linen industries, in accordance with the desire of the government and of the British government to encourage this industry in Ireland. Hugh Boyd, with his harbour at Ballycastle, Co. Antrim, secured over £20,000; and later, in 1763, he got a grant of £3,000 for the repair of the harbour over a period of twenty-one years. In 1753 the parliament seems to have taken pains to find a means of spending public money on objects outside the fixed establishments. The grants increased from £8,500 to £38,100, and in the following session (1755) to £64,800; in 1765 they amounted to £107,496.

The Irish parliament has been frequently castigated for having applied " a considerable part of the additional duties for their own benefit " (Chisholm). The objects of the appropriation were in two main classes; hospitals and charities and schools, and agriculture, commerce and industry. The heavy expenditure on the foundling hospital and the charter-schools was surely, in the eyes of the Irish parliament, for a national purpose, viz. : the spread of the Protestant religion. That is its justification. The grants to agriculture and

industry were an important element in the rapid advance made in Ireland in commerce, agriculture and manufacture in the latter part of the 19th century. Hely Hutchinson wrote of the grants, " Many of those grants prove the poverty of the country. There were not private stocks to carry on the projects of individuals, nor funds sufficient for incorporating and supporting companies, nor profits to be had by the undertakings sufficient to reimburse the money necessary to be expended. The Commons therefore advanced the money, for the benefit of the public."[27] Lord Harcourt in 1774 in an address from the throne, congratulated the Commons on " the most compleat system of Laws for the encouragement of Tillage that exists in any country ". Grants made by the Irish parliament show to the modern mind a too paternalistic attitude. Such an attitude of government was certainly not rare in Europe between 1750 and 1800. It is, besides, hardly fair to compare the activities of the Irish parliament with those of the parliament of Great Britain. The relations of the executive to the legislature were altogether different in the two countries. The legislature in Ireland was rigidly cramped. Its control over the executive was negative. It was encouraged and almost compelled to appropriate grants by the attitude of the government in the dispute in 1753 over the disposal of the surplus. The civil and the military lists were determined by Royal Sign Manual Warrant and by King's Letter. The Money Bills were still drafted by the Privy Council. That there was some corruption in giving the grants, it is impossible to doubt. That the Irish parliament produced a single member who was not corrupt is its glory and that of the unpurchaseable members; because the government of Ireland was conducted on corruption as a principle. The appropriations fall into two classes. Grants to private individuals may be regarded with a maximum of suspicion. These grants were often given to encourage a particular industry; but they gave a monopoly advantage to one

[27] *Commercial Restraints of Ireland Considered.* 1779. pp. 53-54.

person, and there was no guarantee that the industry would be conducted with ability or even at all. A speaker in the parliament of 1763 complained that in certain instances these grants had put an end to the manufacture they were intended to encourage. In the parliamentary debate, Dr. Lucas said " I remember a considerable sum was given last Session to the Proprietor of a Glass-House on the *Strand,* who, the Moment he got it, instead of setting himself to blow bottles, set his House on fire, blew it up, and then went about his Business. Large Sums were also given to the Cambric Manufactory, and, the next Thing we heard of it, was, that the Proprietors were Bankrupts."[28] But it is hard to believe him, because later in the session he spoke in favour of this glass-house owner whose premises " had, by Accident, been burnt down ". It seems clear however that they were burnt down and that the grant was a dead loss to the public. A statement has often been made that members spoke openly across the floor of the House asking and arranging for reciprocal support for jobbery propositions, but this seems to be based on a misreading of Caldwell's Report of the Debates of 1763 and 1766.

In cases where grants were given to a single individual or to two persons, the list given gives particulars. Where trustees were appointed, there was less probability of misapplication of the funds. The grants for navigation, canals, mills and factories, schools and hospitals were not, in the aggregate, as great as the funds appropriated by parliament by special statute, and the latter were given to any person qualified under the granting act to avail of them. As it is difficult to obtain an accurate account of these appropriated duties,[29] a statement is here given from 1707 when the first of the Acts was passed.

(1) 6 *Anne c.* 9 (1707). A bounty on hemp-seed imported to Ireland at the rate of 5/- per hogshead, for 9 years from 24/12/1707, was given

[28] *Debates,* 1763 and 1766, Vol. I. (2/11/1763.)

[29] The account given in *P. I. and E. Accounts* is inaccurate and incomplete.

to encourage the linen manufacture " forasmuch as the flaxen and hempen manufactures are almost the only branch of trade, which this kingdom hath left, wherein to employ the hands of the poor inhabitants thereof." This bounty was charged on the revenue in the Port Collectors' hands before it reached the Exchequer. To some extent it may have been met by an export tax, charged by the same act (sec. 2) of 5/- per hogshead on hemp-seed exported other than hemp-seed grown in Ireland.

(2) 6 *Anne c.* 9 (1707). A bounty of a 1d. per yard of sail-cloth exported from Ireland if the value was between 10d. and 14d., and of 2d. per yard if 14d. or over, was granted for nine years from 1707 *to encourage the manufacture of sail-cloth in Ireland.* The rates were doubled in 1709 by 8 Anne c. 12. s. 2.

(3) 6 *Anne c.* 9 (1707). *" And for asmuch as pot-ashes and other materials for bleaching of linnen, and for making of soap, are at present very scarce and dear, and the making of ashes of sea-wreck, commonly called kelp, in places lying on the sea-shore, will be very necessary and of great use and benefit to the whole kingdom in bleaching of linen ",* a premium of 2/6d. per ton of kelp made in Ireland was granted for nine years from 1707. A curious system of " benefit " taxation was adopted to meet the cost of this indulgence. The amount of premiums paid in any county was spread by a general rate over that county, so that the charge did not fall on the nation as a whole. (section 6 of the act).

(4) 6 *Anne c.* 18 (1707). A bounty of 1/- per quarter (8 bushels) of barley and of rye exported from Ireland, and of 1/6d. in the case of wheat was paid, out of the revenue before it reached the Exchequer just like a drawback. *It was given for the encouragement of Tillage.* The bounties were granted by the act perpetually until repealed or amended by statute.

(5) 8 *Anne c.* 2 (1709.) An additional duty of 1/6d. per yard of calico imported and of 6d. per yard of linen imported was charged in the biennial Supply Act *both to protect the Irish linen industry and to supply a fund to be applied, as the act directed* (sec. 2), *" to the use and support of the linnen-manufacture in this kingdom,* and to no other use whatsoever ". It was granted for one year only, but was later renewed (see (7)).

(6) 8 *Anne c.* 12 (1709). This act applied to the importation of flax-seed the premium already granted by 6 Anne c. 9 to the importation of hemp-seed, and *for the same purpose,* (see (1)). The period was until 24/12/1716; and the premium was directed to be paid in the same manner as a drawback.

(7) 9 *Anne c.* 3 (1710). The " Trustees for the Linen Manufacture " were appointed under this Act. It continued for 7 years from 25th June 1710 the duties granted by 8 Anne c. 2 (see (5)) and directed the proceeds to be paid by the Vice-Treasurer, without any fee deductions, to the Trustees, *in order to encourage the linen industry in Ireland.*

(8) 2 *Geo. I, c.* 13 (1715). This act continued for 21 years from 24/12/1716 the duties granted by 16 Anne c. 9 sec. 1 and by 8 Anne c. 12 (1) and (6)) for the benefit of the linen industry; it also provided for the continuance of the export duty on exported seed not of Irish growth. It continued the bounties *for the encouragement of the sail-cloth industry* for 21 years, at 2d. and 4d. for the first 10 years and at 1d. and 2d. for the remaining 11 years. (see (2)).

It also continued for 7 years from 24/12/1716 the premium, *for the benefit of the kelp industry,* of 2/6 per ton ((3)).

This act also provided for the continuance of the *protective tariff on linen and calico* at the same rates as in 9 Anne c. 3 ((5), (7)) for a further period of 7 years from 25/6/1716.

(9) 6 *Geo. I. c.* 4 (1719). This, the Supply Act of the session, imposed (sec. 7) additional duties on tea (1/- per lb.), coffee, chocolate and cocoa-nuts (3d. per lb.), and appropriated the entire proceeds of these duties *to the hempen and flaxen manufactures and linen trade.* The duties and the appropriation were re-enacted in every succeeding Supply Act; but see (32).

(10) 6 *Geo. I. c.* 15 (1719). By this Act (sec. 10) the Lord Mayor of Dublin was authorised to license 50 more coaches and 40 chairs. When a licence was being taken out or renewed at the end of a six-yearly period, the applicant was obliged by the act to pay 5/- to *the Blue-Coat Hospital.*

(11) 10 *Geo. I. c.* 2 (1723). Continued, for 7 years from 25/12/1723, the linen and calico import tariffs first given by 9 Anne c. 3 and renewed by 2 Geo. I. c. 13 (see (5), (7) and (8)) at the same rates, *for the benefit of the linen industry.* Exemption was granted to linen and calico manufactured in Great Britain.

The act also provided (sec. 16) that the *sail-cloth bounties* should remain at the higher rates (despite 2 Geo. I. c. 13) for 8 years from 1723 and should continue at the lower rates for 11 years from 1731 ((2) and (8)).

(12) 3 *Geo. II, c.* 3 (1729). Commissioners were appointed *for the encouragement of tillage.* " And whereas the encouraging of tillage, and employing the poor in this kingdom will be of great benefit to the same, and it is reasonable and fit, that works of such publick benefit and advantage should be carried on at the charge of the kingdom by some publick fund appointed and set apart for that purpose ", licence duties on coaches (20/- per annum) and on chairs and

chaises (5/- per annum) were imposed for 21 years from 25/3/1730; and duties additional to those already charged were imposed on playing-cards (6d. per pack if made in Ireland; 12d. per pack if imported) and on dice (5/- per pair of dice) for the same lengthy period. A duty of 6d. per oz. troy was charged on gold and silver plate made in or imported into Ireland. The entire proceeds of these duties was to be paid by the Exchequer without deduction of the traditional fees, to the Commissioners appointed by the parliament for the encouragement of tillage.

(13) 7 *Geo. II, c.* 10 (1733). Continued for 7 years from 24/12/1737 the premiums on the importation of hemp-seed and flax-seed and the export duty on seed not of Irish manufacture (see (1), (6) and (8)), *for the encouragement of the linen industry.* It continued till 25/12/1744 the protective duties on calico and linen for the *benefit of the linen industry* (see (5), (7), (8) and (11)); and authorised the premium on *sail-cloth* to remain at the higher rates until 25/12/1744 ((2), (8), (11)).

(14) 11 *Geo. II, c.* 14 (1737). In order *to develop the whale fisheries* a premium of 20/- per cwt. of whale finn and 10/- per ton of whale-oil " to be paid by the collector of the next port to the party so taking said whales ".

(15) 17 *Geo. II, c.* 1 (1743). The Supply Act of this year imposed a duty (sec. 7) of 6d. per hide of raw and untanned leather exported from Ireland (except to Great Britain) and (sec. 8) appropriated the proceeds *for the purpose of raising flax-seed* in Ireland. The Trustees of the Linen manufacture were to receive this bounty. Being given in the biennial Supply Act it applied for two years only, but the duties and the appropriation were renewed each session.

(16) 17 *Geo. II, c.* 3 (1743). *To encourage the flax industry* a premium of 1/- per bushel was authorised to be paid, for 5 years from 25/12/1743, on the export of Irish-grown flax seed.

(17) 19 *Geo. II, c.* 1 (1745). This Supply Act added a new duty (sec. 7) of 3d. per yard on all cambrics and lawns (other than of British manufacture) imported into Ireland. The proceeds were ordered (sec. 9) to be given to the Governor and company for carrying on the *Cambric manufacture* in Dundalk or elsewhere in Ireland. This duty was re-enacted in subsequent sessions; but in 1751 (25 Geo. II, c. 1) the 3d. tax was not appropriated, while an additional tax of 1 penny on imported cambric was charged and appropriated to the support of the Dundalk industry (sec. 10). This continued until 1765, but was dropped from the 1767 act and not re-enacted.

(18) 19 *Geo. II, c.* 5 (1745). *For the encouragement of English Protestant Schools* a licence duty was imposed on hawkers, pedlars and petty chapmen amounting to 20/- per annum, with an additional 20/- for each horse, mule, or ass used by the hawker. The proceeds were paid to the Incorporated Society in Dublin for promoting English Protestant schools (sec. 6) and the duties were imposed for two years to 25/6/1748, but were re-imposed in later acts.

(19) 19 *Geo. II, c.* 6 (1745). Continued for 7 years the import duties on calico and linen *to be paid to the Trustees for the Linen manufacture* (see (5), (7), (8), (11), (13)); continued for 2 years from 25/3/1746 the premium of 1/- per bushel on Irish-grown flax-seed exported ((16)); continued for the same period, the premium of 5/- per hogshead on hemp and flax-seed imported into Ireland ((1), (6), (8), (13)); and continued for 7 years from 25/3/1746 the premiums of 2d. and 4d. on exported sail-cloth of Irish manufacture ((2), (8), (11), (13)).

(20) 23 *Geo. II, c.* 5 (1749). Continued for a further period of 21 years from 25/3/1751 the duties *for the encouragement of Tillage* granted originally in 1729 (see (12)) at the identical rates.

(21) 23 *Geo. II, c.* 6 (1749). Continued for 2 years both the bounty of 5/- per hogshead on hemp and flax-seed imported (19)) and that of 1/- per bushel on Irish-grown flax-seed exported ((19)).

(22) 27 *Geo. II, c.* 2 (1753). Continued the import tariffs on linen and calico (British manufacture excepted) for nine years ((19)), also the premium of 5/- per hogshead on imported flax and hemp-seed for 9 years ((21)); the premium of 1/- per bushel on Irish-grown flax-seed exported, for nine years ((21)).

(23) 27 *Geo. II, c.* 3 (1753). This act imposed upon the inhabitants of the " district of Lisburn " a special excise tax on liquor for 11 years from 25/12/1753 *for the navigation of the River Lagan* (continued by 3 Geo. III, c. 6, for 9 years to 25/12/1773; and by 11 & 12 Geo. III, c. 26, for 9 years to 25/12/1782).

(24) 29 *Geo. II, c.* 9 (1755). This act increased the bounties given by 6 Anne, c. 18 ((4)) *for the encouragement of tillage.* The new amounts were 1/6 per quarter of barley, bere, malt or rye; 2/- per quarter of wheat; and 1/- per quarter of oats. The quarter measure was stated in the act to be 24 stone of barley or bere, 22 stone of oats, 20 stone of malt and 40 stone of wheat or rye. As before, the bounties were directed to be paid out of the revenue before it reached the Exchequer.

(25) 31 *Geo. II, c.* 3 (1757). This act granted a permanent series of bounties on " sound mer-

chantable" corn, wheat, rye, meslin, bere, barley, malt, oats, flour and meal brought by land to Dublin from the place of growth in Ireland provided that such place was more than 10 miles "plantation measure" distant from Dublin. For every 40 stone of these commodities a bounty at the rate of 5 pence for every 5 miles was to be paid, provided that the maximum bounty on 40 stone weight was 10/-. The act was passed "*for better supplying the city of Dublin with Corn and Flour*". These bounties were directed to be paid by the collector of the port of Dublin and the collector was authorised to charge them in his accounts.

(26) 31 *Geo. II, c.* 14 (1757). *For encouraging Irish collieries and cheapening coal in Dublin.* This act granted a premium of 2/- per ton of coal brought into the port of Dublin from any coal colliery in Ireland. The importer had to pay to the collector a fee of 1/1 for cocket or clearance. The premiums were paid, under the provisions of the act, out of the revenue in the hands of the collector at the port of Dublin.

(27) 3 *Geo. III, c.* 12 (1763). Continued for 21 years the customs duties of 1/6 per yard on calico and muslin imported (except of British manufacture), and of 6d. per yard on linen not of British manufacture, and applied the proceeds *to the use of the hempen and flaxen manufactures* as before.

The act continued also (sec. 3) for 21 years the premium of 5/- per hogshead on imported hemp and flax-seed ((25)), the 5/- export duty on exported hemp-seed not being of Irish manufacture (sec. 4); the premium of 1/- per bushel of Irish flax-seed exported (sec. 5). All these were by this act continued until 1784.

(28) 3 *Geo. III, c.* 24 (1763). This act gave a bounty of 20/- per ton to the owners of fishing vessels built in Great Britain or Ireland, and used for

fishing on the Irish coasts. The bounty applied only to vessels between 20 and 100 tonnage. By section 5 of the act a bounty was given of 2/- per barrel (32 gallons) of good, sound, well-cured white herrings exported from Ireland; of 2/6 in the case of mackerel; 5/- per six score lyng; 3/- per 6 score of hake, haddock, glassing, otherwise coal fish, and conger eel; 4/3¼ for every tierce (41 gallons) of cured fish exported; £3 per ton of oil extracted from whales and 30/- per ton of oil extracted from other fish taken on the Irish coast; and £4 per cwt. of whale fins, commonly called whalebone.

All these bounties were given *for the encouragement of the fishing industry,* and were directed to be paid out of the revenue in the hands of the Commissioners of Revenue, *i.e.*, before it had reached the Exchequer.

(29) 3 *Geo. III, c.* 34 (1763). Section 90 of this act made perpetual the bounty of 1/- per bushel of Irish-grown flax-seed exported (see (22)).

(30) 3 *Geo. III, c.* 19 (1763). This act altered, for the period from 1/3/1767 to 1/3/1772, the rates of bounty given by 29 Geo. II, c. 9, on tillage products exported. The new rates were 8d. per cwt. of wheat when the market price of wheat did not exceed 6/- per cwt.; 5d. per cwt. of barley and of oats when the price was not greater than 3/9 per cwt., barley, and 3/- per cwt. oats.

(31) 5 *Geo. III, c.* 18 (1765), granted 8 premiums of £200 each for each county in Ireland to be paid for 7 years from January, 1767, to the farmers of each county who on 1st January possessed the greatest quantity of corn reaped from their own farms. The premiums, *for the encouragement of tillage,* were directed to be paid by the Vice-Treasurer or his deputy.

(32) 7 *Geo. III, c.* 2 (1767). This was the Loan

Duties Act of 1767. The Supply Act of this session (7 Geo. III, c. 1) omitted to charge the duty on tea which, since 1719 (6 Geo. I, c. 4) (see (9)) had been appropriated to the use of the Trustees for the Linen industry. The Loan Act imposed a duty of 4d. per lb. on tea (6d. on green tea) in lieu of all other tea duties and enacted that the proceeds of this duty should be appropriated as follows :—

£10,000 to the trustees of the hempen and flaxen manufactures in Ireland as a first charge.

£7,300 to be placed to the credit of His Majesty's Hereditary Revenue, as a second charge. The balance to be added to the Loan Duties for the service of the national debt.

(33) 7 *Geo. III, c.* 12 (1767). This act reduced the rate of premium on flour brought by land to Dublin (see 31 Geo. II, c. 3 (25)) from 5d. to 3d. per 5 miles. It granted an additional premium of ½d. per mile for every 40 stone weight of wheat, bere, barley, malt, and pearl barley and so in proportion for a lesser quantity.

(34) 7 *Geo. III, c.* 24 (1767). By the provisions of this act, bounties, *to encourage tillage,* were given on wheat, flour of wheat, oats, bere, barley, malt made of bere or barley, grown in Ireland and brought by water coastways to Dublin from any place south of Dublin not nearer than Wicklow nor further than the Tuscar, and from any place north of Dublin not nearer than Drogheda nor further than Carrickfergus. The rate of the bounty was 4 pence per cwt.

It granted a similar bounty of 5 pence per cwt. on these commodities if brought from a port in Ireland south of the Tuscar or north of Carrickfergus (sec. 2). The act directed the collector at the port of Dublin to pay these bounties out of revenue in his hands.

The collectors at the ports of Newry, Belfast and Londonderry were directed to pay a bounty at the rate of 4d. per cwt. on the same goods brought to these ports from any place south of Cooley Point, near Carlingford.

These bounties, paid out of the revenue before it reached the Exchequer, were continued by the statute to June 24th, 1770.

(35) 7 *Geo. III, c.* 28 (1767). This act made available to small farmers the premium granted in 1765 (5 Geo. III, c. 18, see (31)) and continued them for 7 years from January, 1769.

(36) 11 *and* 12 *Geo. III, c.* 1 (1771/2). This Supply Act granted a new appropriated duty (sec. 1) of 1/- per barrel on imported herrings (except British herrings). The proceeds were appropriated (sec. 9) to the use of the Dublin Society *for the encouragement of fisheries* in the north-west parts of Ireland. The appropriation was continued in subsequent Supply Acts. The duty was raised to 10/- per barrel in 1787 (27 Geo. III, c. 1) and brought to 9/- in 1792 (32 Geo. III, c. 1) and to 6/- in 1793. From 1793 the appropriation was made in favour of the Revenue Commissioners for lighthouses for fisheries.

(37) 11 *and* 12 *Geo. III, c.* 4 (1771/2). Continued for 7 years from 25/3/1772 the duties granted in 1729 (see (12)) and renewed in 1749 (see (20)) *for the encouragement of tillage.*

(38) 13 *and* 14 *Geo. III, c.* 5 (1773/4). The surplus of the Loan Duties after the interest charges of the debt had been met, were by this act (sec. 16) applied to redemption of due tontine annuities. Out of the residue a sum of £5,000 per annum was directed to be paid to the Dublin Society *for the encouragement of trade, agriculture, and manufacture.*

(39) 13 *and* 14 *Geo. III, c.* 11 (1773/4). This act amended 29 Geo. II, c. 9 ((24)) increasing, for five years from 24/6/1774, the premiums payable, *for the encouragement of tillage,* on exported corn. The new rates were as follows:—on wheat, ground wheat, meal, wheat-flour, 3/2 (English) per quarter when the price of Irish wheat did not exceed 1/- (Eng.) per stone; 1/3 (Eng.) per quarter of oats as long as the price of oats did not exceed 7/- (Eng.) per quarter; 2/4 (Eng.) per quarter of rye, peas or beans, when their market price did not exceed 25/- (Eng.) per quarter. The quarter (of eight bushels) to contain 448 lbs. The act (sec. 3) provided that the bounties should not be payable on corn exported from Dublin or from any port from Drogheda southward to Wicklow.

(40) 13 *and* 14 *Geo. III, c.* 17 (1773/4). *For the benefit of the Foundling Hospital and the Workhouse, Dublin,* a tax was charged for 2 years from 24/6/1774 on all houses in Dublin of £10 valuation and above. The rate was 4d. in the £ " according to the valuation for minister's money ". Of the produce, £400 per annum was to be paid to the treasury for His Majesty's use; the balance was to be transferred to the governors of the foundling hospital and workhouse. The act 15 and 16 Geo. III, c. 25, imposed a tax of 6d. in the £ (of parish or county cess valuation) in the case of houses not charged with a valuation for ministers' money.

(41) 15 *and* 16 *Geo. III, c.* 4 (1775/6). Amended 3 Geo. III, c. 12, secs. 3 and 4 ((27)) which granted for 21 years a bounty of 5/- per hogshead on imported hemp and flax-seed. The act refers to the grant from the British Exchequer by 15 Geo. III (Brit.) of a bounty of 5/- per hogshead on flax-seed imported into Ireland, for 2 years from 1/1/1776. The present act, in order to prevent the British bounty, " so graciously granted " from being perverted to any other purpose than that for which it was bestowed, viz.: *the encouragement of the linen industry,* increased the export duty, of 5/- per hogshead of Irish-grown flax-seed exported, by 5/6 per hogshead so long as the British bounty should last.

(42) 15 *and* 16 *Geo. III, c.* 19 (1775/6). For 11 years from 1/1/1776 bounties were ordered to be paid to the owners of *ships employed in the British fisheries on the banks of Newfoundland* provided they were British-built, owned by British subjects, and of 50 tons burden or upwards. The bounties, amounting to £2,500 per annum, were to be paid out of the revenue in the hands of the collectors, before it reached the Exchequer.

(43) 17 *and* 18 *Geo. III, c.* 16 (1777/8), continued for 7 years from 25/3/1779 the duties, *for the encouragement of Tillage,* which were last renewed by 11 and 12 Geo. III, c. 4 ((37)).

(44) 17 *and* 18 *Geo. III, c.* 18 (1777/8). *To encourage the Whale Fisheries,* bounties were granted from 1/8/1778 on the tonnage of ships engaged in that industry, viz.: 40/- per ton to 1/8/1784, and 30/- per ton to 1/8/1790, in lieu of all other bounties for this purpose.

(45) 17 *and* 18 *Geo. III, c.* 21 (1777/8). Section 7 of this act amended 3 Geo. III, c. 12, sec. 5 ((27)) and granted a bounty of 2/- per bushel of *Irish-grown flax-seed exported from Ireland* in the 21 years commencing 1/8/1778.

(46) 17 *and* 18 *Geo. III, c.* 29 (1777/8). In the case of corn, etc., brought from the place of growth in Ireland to Dublin partly by road, partly by canal, only two-thirds of the premiums (see (25) and (33)) were payable except in the case of oatmeal, when the full premium was to be paid. The mileage in respect of which the premiums

were in such a case payable was (sec. 2) reckoned by the shortest route, not necessarily along the canal way.

(47) 17 *and* 18 *Geo. III, c.* 31 (1777/8). This act continued till 25/3/1781 the premiums granted by 13 and 14 Geo. III, c. 11 ((39)).

(48) 17 *and* 18 *Geo. III, c.* 34 (1777/8). The premiums on corn brought by water to Dublin (7 Geo. III, c. 24 (34)) had expired on 24/6/1770 and not been given again. They were now renewed from 1/8/1778 and continued to 1/6/1782. The rates of the premiums were 4d. per cwt. of wheat, beans, peas, oats, bere, barley, and oatmeal; 1/- per cwt. of flour made of wheat, and malt made of bere or barley. The higher rates (see previous act) were 5d. and 1/2.

(49) 19 *and* 20 *Geo. III, c.* 17 (1779/80). The bounties given by 13 and 14 Geo. III, c. 11 ((39)), *for the encouragement of tillage,* were by this act increased as follows: Bounty of 5/- (English) per quarter of wheat, and malt made of wheat, so long as the market price of middling Irish wheat did not exceed 44/- (English) per quarter; of 3/- per quarter of rye when price did not exceed 28/- per quarter; of 2/6 per quarter of barley, bere, and malt made thereof when under 22/- per quarter; of 2/- per quarter of oats and 2/6 per quarter of oatmeal when the price of oats was not more than 14/- per quarter (of 276 lbs. weight).

In order to provide a special fund for the payment of these export bounties, import duties were charged on all imported corn except British. The duties were as follows: On wheat, wheat-meal, malt made of wheat, when price at the Irish port did not exceed 83/4 per quarter, a duty of 16/11$\frac{2}{20}$ per quarter; on rye, when not above 40/-, a duty of 16/11$\frac{1}{20}$; on oats and oatmeal, when not above 15/-, a duty of 5/10$\frac{9}{20}$; on barley,

when not above 32/-, a duty of 15/11$\frac{1}{20}$; and on peas, when not above 40/-, a duty of 16/9$\frac{4}{20}$; " the produce of the said duties to be applied towards the payment of the bounties herein before mentioned ". This act continued in force (sec. 13) until 24th June, 1783. It reduced the rates of bounty on corn brought by land carriage to Dublin, until 24th June, 1783, to 2d. per cwt. per 5 miles for flour and malt, and 1d. per cwt. per 5 miles for wheat.

(50) 19 *and* 20 *Geo. III, c.* 32 (1779/80). This act continued for 32 years from 25/12/1782, the local excise duty in the Lisburn district mentioned at (23).

(51) 19 *and* 20 *Geo. III, c.* 33 (1779/80). This act altered the policy of granting bounties on the importation of selected foreign flax-seed and replaced it by the policy of *encouraging the growth of Irish flax-seed.* The duties first granted in 1707 (6 Anne, c. 9 (1)), and renewed continually until by 3 Geo. III. c. 12 (27) they were renewed until 1784, were now repealed. The act granted an annual appropriation of £7,250 to the Trustees of the Linen Manufacture to be applied by them to encourage the growth of flax-seed and hemp-seed, to be paid " out of such monies as the said bounties on imported flax-seed have been usually paid out of " or out of the additional duties (section 2). It also granted, for the same purpose, the proceeds of a duty of 6d. a gallon on linseed oil to be charged from 24/6/1780 to 24/6/1781; and (sec. 9) gave a bounty on the export of Irish linen to Africa, America, Spain, Portugal, Gibraltar, and the island of Minorca amounting to about 10 per cent. *ad valorem;* a bounty on striped linen exported to same places of about 2 per cent. *ad valorem;* and on other linens a bounty of about 6 per cent. On

sail-cloth and canvas of Irish manufacture, a bounty of 6½d. per 3 ells was given.

All these premiums were directed to be paid out of the revenue in the Customs collectors' hands. In order to provide funds for these bounties, an increase of 5 per cent. was made on the Customs Inwards and Import Excise duties on all dutiable goods except tobacco, hops and sugar. If this should not provide an adequate fund, a sum not exceeding £10,500 should be paid to the trustees out of the produce of the tea duties. Those provisions were renewed by the following subsequent acts viz. : 21 and 22 Geo. III c. 8 (1781/2) with a change in the duties imposed to provide a fund; 23 and 24 Geo. III c. 7 (1783/4); 25 Geo. III c. 11 (1785); 26 Geo. III c. 4 (1786); 28 Geo. III c. 8 (1788); 29 Geo. III c. 13 (1789); 30 Geo. III c. 8 (1790).

(52) 19 *and* 20 *Geo. III c.* 34 (1779/80). This act continued until 24/6/1784 the " beneficial " provisions of 17 and 18 Geo. III c. 34 (48) with the same rates; and added an additional bounty viz. : in the case of corn brought by water coastwise to Dublin from between Cape Clear and Doonass Head, Co. Donegal, amounting to 10 pence and 1/6d. respectively. For his " very considerable trouble and expence ", the collector at the Dublin port was authorised to deduct for his own use 6d. in the £ of the amount of premiums paid.

(53) 21 *and* 22 *Geo. III c.* 17 (1781/2). From 1/5/1782 until 25/3/1788, an additional duty of 1/- per ton of coal (not being Irish) imported or brought into Dublin harbour was imposed, the proceeds to be paid to the commissioners appointed *for making a wide and convenient street from Essex Bridge to Dublin Castle.* Continued till 25/3/1810 by 23 and 24 Geo. III c. 31 (1783/4).

(54) 21 *and* 22 *Geo. III c.* 37 *s.* 5 (1781/2). *" For the better encouragement of the curing of red herrings "*, a bounty of 1/9d. per barrel exported and of 1/- per barrel of clean shotten herrings was granted.

(55) 23 *and* 24 *Geo. III c.* 19 (1783/4). This act abolished all duties on the export of corn from Ireland. It granted amended bounties on *corn exported* (see (49)) viz. : on wheat (market price not exceeding 27/- per barrel) 3/4d. per barrel; on wheat meal 1/4d. per cwt.; on wheaten flour 1/11d. per cwt.; on barley 1/7d. per barrel; on malt of barley 2/- per barrel; and on barley-flour 1/- per cwt., so long as the price of barley should not exceed 13/6d. per barrel; on rye (market price not exceeding 23/-) 2/2d. per barrel; on oats 1/5d. per barrel if the price was not more than 10/- per barrel. It also altered the duties on wheat, rye, barley and oats, increasing them considerably, but granting specially low rates for British-grown corn.

It was provided that no bounty should be given on the export of corn from Dublin or between Drogheda and Wicklow.

(56) 25 *Geo. III c.* 12 (1785). Continued for 21 years from 25/3/1785 the duties on calico and linen which were expiring—see 3 Geo. III c. 12 (27).

(57) 25 *Geo. III c.* 35 (1785). This act repealed 17 and 18 Geo. III c. 18 (44) and granted the following bounties *for the encouragement of the Whale and other Fisheries,* for a period of four years. Amended by 27 Geo. III c. 31 and continued by 30 Geo. III c. 24 and 32 Geo. III c. 23 to 25th March 1795.

30/- per ton of ship's tonnage engaged in fishing.

60/- per ton of tonnage to builder of ship on N.W. coast (vessel between 20 and 60 tons).

2/10⅔d. per barrel of cured herrings or mackerel exported (except to Great Britain).

1/10¾d. per barrel cured red herrings.
1/1d. per barrel cured shotten red herrings.
5/5d. per six score of ling and cod exported.
3/3d. per six score of hake.
2/2d. per barrel of cured cod.
£3 per ton of oil extracted from whales or other fish.
£4 per cwt. of whale-bone.

(58) 25 *Geo. III c.* 43 (1785). *For the benefit of the Lying-in Hospital, Dublin,* a sum of £1.15.6. per annum was charged on every sedan chair, except hackney chairs and chairs forming stocks for sale, to be collected by the Governors of the Foundling Hospital (who might retain 6d. in the £ to cover the cost of collection) and paid to the account of the Lying-in Hospital.

(59) 25 *Geo. III c.* 50 (1785). The Governors of the *Foundling Hospital* were authorised to assess and collect a tax of 6d. in the £ of the valuation of every house within a 2 mile radius of Dublin Castle. All houses over £5 were liable. They were also authorised to charge an additional tax of 16/- per month on all hackney coaches drawn by two or more horses, and they were empowered to increase the legal fares of such coaches.

(60) 25 *Geo. III c.* 62 (1785). This act directed that the bounty on oatmeal per cwt. brought to Dublin from the place of growth in Ireland, by land, sea or canal, should be equal to that granted by previous acts in respect of 1 barrel of oats ((25), (33), (34), (46)).

(61) 26 *Geo. III c.* 38 (1787). Continued for 21 years from 25/3/1786 the duties on coaches, cards and dice etc. (see last (43)).

(62) 26 *Geo. III c.* 50 (1787). Granted a premium of 30/- per ton on the tonnage of vessels engaged in the *whale fisheries* in the Greenland seas and to Davis's straits. The act continued till 25/12/1791. The bounties were directed to be paid out of the revenue in the hands of the revenue commissioners.

(63) 29 *Geo. III c.* 15 (1789). This act repealed the duties on coaches given by 3 Geo. II c. 3, continued by 23 Geo. II c. 5, and by 11 and 12 Geo. III c. 4, and 17 and 18 Geo. III c. 16, and 26 Geo. III c. 38, and in lieu of them granted £1,317 10/- per annum for two years to be paid from the coach duties now applied to the general revenue, but by 29 Geo. III c. 23 (same session) it was stated that this grant was inadequate for the requirements of *inland navigation,* and 26 Geo. III c. 38 was repealed as regards duties on cards, dice and carriages and the Government was authorised to issue debentures at 4 per cent. amounting in the whole to £188,700 for various navigation works.

(64) 30 *Geo. III c.* 39 (1790). *For the improvement of the port and harbour of Drogheda,* a local port tax of 6d. per ton per ship entering the port with cargo was imposed; it did not apply to vessels belonging to the crown, coasters and coasting vessels. On coasters a charge of 3d. per ton was authorised. The dues were to be collected by the official revenue collector at the port who was permitted by the statute to retain 6d. in the £ for his trouble. The balance was to be paid to commissioners appointed by parliament (section 9 of the act) for improving the port. This act lasted for 12 years from 25th March 1790.

(65) 33 *Geo. III c.* 5 (1793). Appropriated to the use of the *Trustees of the Royal Exchange, Dublin,* the proceeds of a new duty of 1/- per entry inwards in the port of Dublin.

(66) 37 *Geo. III c.* 24 (1797). All bounties on corn etc. carried by land, sea or canal were discontinued from 1/9/1797 (see for these bounties (33), (34), (39), (46), (48), (49), (52), (60)). In lieu of these bounties, the export bounties, last determined

in 1783/4 by 23 and 24 Geo. III c. 19 (55), were extended to *exports of corn* etc. from Dublin and from ports between Drogheda and Wicklow.

(67) 39 *Geo. III c.* 53 (1799). The additional duty of 1/- per ton of foreign coal imported at Dublin did not provide sufficient funds for making streets in Dublin (see (53) viz. 21 and 22 Geo. III c. 17 continued by 23 and 24 Geo. III c. 31). The present act provided additional funds *for the purpose of opening a communication from Carlisle Bridge to the Parliament House, and another way from Carlisle Bridge along the Liffey to White's Lane, George's Quay.* Every house occupied in Dublin was obliged by the act to take out a yearly card-playing licence at a cost of 5/5d. for houses between £20 and £30 valuation, and 11/4½d. for houses between £30 and £40.

This was the last of such acts passed in the Irish parliament.

Where special taxation was imposed to meet the cost of these subventions, a note has been made of the fact. In general the bounties and premiums were paid in the same manner as drawbacks, out of the revenue in the hands of the collectors before it reached the Exchequer. For this reason the Public Accounts do not show the amounts paid; both sides of the account are correspondingly reduced.

The act passed in 1757, granting bounties on corn brought by land from Irish farms to Dublin, and the subsequent acts of 1767 (coast-traffic) and 1777 (canal-traffic) imposed an exceptionally heavy charge upon the revenue. These bounties ceased in 1797. The amount paid under the 1757 act (as continued) on flour alone, amounted in 1772/3 to £24,000.[30] In 15 years to 25/3/1775 the amount paid on the inland carriage of all corn amounted to £307,315. In the latter years the amount was about £70,000 per annum. In 1788/89 when

[30] *Commons Journals*, Vol. 9. Appendix.

the yield of the Additional Duties was £573,600, the bounties paid as drawbacks amounted to £176,000.[31] There had been a continuous and marked increase since 1763, when the amount was £21,375, the average in the five years 1763-1767 being £54,176. In other words, the bounties were effective in promoting trade. In addition, bounties were paid out of the Exchequer from the Appropriated Duties amounting at that date to about £230,000. The total amount of the bounties and premiums granted openly to all who could avail of them was, therefore, much greater than the aggregate, at its highest, of the grants set aside in a section of the Supply Act or the Appropriation Act and granted to named trustees and individuals for stated purposes. As a safeguard against misapplication, the parliament instructed special committees to examine, from time to time, the entire operations and management of the beneficiary bodies, with a view to seeing that the grants were deserved and that all the funds at the disposal of the institution were administered frugally and economically. Whatever defects there were in the general administration of the revenues, for which the House of Commons could but ineffectively attempt to find a remedy, the administration of the appropriated duties was closely investigated and detailed reports made to parliament.[32] The examination was more close and detailed than any made nowadays by parliament into a grant-in-aid.

The appropriation of part of the supplies was a big factor in giving an ascendency to the House of Commons. Without appropriation, legislative independence would never have been achieved. Parliament, the two Councils and the King were aware of this. The continual disputes about the Money Bills were based upon this recognition. An Irish writer in a pamphlet

[31] *Commons Journals.*, Vol. 13, p. cexxiv etc. App.

[32] See Reports 10/12/1717 (Linen); 10/10/1723 (Hempen and Flaxen Manufactures); 8/12/1725 (Dublin Workhouse); 8/12/1725 (Flaxen and Hempen Manufacture); 21/12/1727 (Flaxen and Hempen Manufacture); and numerous later reports in Appendices of *Journals of House of Commons.* By 1758 every grant which ought to have been accounted for to parliament was examined in great detail.

written in 1770 expressed the reasoning: "The money of the nation is in the hands of the people, who have a right over their own property, not to be wrested from them, whilst they remain free".[33] When the victory had been won, it was not easy to discontinue the grants. After 1782, there was a general desire to limit them, and to ensure that value accrued to the nation from the grants given. In place of the periodical parliamentary examination of the accounts of beneficiaries, a special body of paid commissioners was appointed in 1784 to audit these accounts.[34] In November, 1783, a resolution was passed by the House of Commons that further grants should not be given for public works, canals, piers, or harbours, until the expenditure of all sums given in the preceding seven years should have been accounted for; and it was made an essential condition that a plan and estimate of proposed works should be submitted to the Commissioners of Accounts. Plans and estimates were to be approved, and security given that the work would be performed in accordance with the plan and within an agreed time.[35] At the beginning the Commissioners of Imprest Accounts had difficulty in securing co-operation from the receivers of government funds; and the audit over seven past years was not performed with ease. In 1785, twenty-seven separate accounts were passed by the commissioners and reports were made to parliament. Arising out of this report the House of Commons passed a resolution in January, 1786: "That no Money be granted this Session of Parliament for any Pier, Harbour, Quay, Canal, Navigation, Colliery, Road, Bridge, Mill, Work, nor for building or rebuilding, or repairing any particular Church or Cathedral, or for any Hospital or Charity, which has not usually and regularly received Parliamentary Support; nor to any individual Manufacturer or Company of Manufacturers, nor in Consideration of

[33] *The Constitution of Ireland and Poynings' Laws explained.* Richard French Dublin, 1770. p. 5.

[34] 23 & 24 George III: "for the due accounting for all Money granted for public works, etc."

[35] *C. J.*, Vol. XI, pp. 99-100.

any Buildings made, or to be made by any Manufacturer, or Set of Manufacturers, other than for Fisheries, unless where separate or distinct Revenues are or shall be provided and appropriated thereto".[36]

As a result of their report in 1789, the House of Commons came to several resolutions affecting the payment of subsequent grants. In future, public funds should be given only on condition that the recipient subscribed £2 for every £1 given by the State, and the one-third part from public funds would not be paid until proof was given to the Commissioners of Imprest Accounts that the two-thirds from non-government sources had been subscribed and actually spent on the proposed works. A further grant should not then be made until the expenditure of the first grant should have been satisfactorily accounted for. Before obtaining any grant, the applicant must deposit in the Bank of Ireland one-fifth part of the capital required to complete the entire work; and if the amount deposited was not fully expended within eighteen months from the date of making the deposit, the part not expended became forfeit, to be applied as parliament might direct.

Even the severe check on the profusion of grants, made in 1789, was not effective. Any member of the House of Commons was at liberty to read to the House a petition for a grant of public money, and the only rule binding the House was that such petitions should be referred to Committee. The experience in the Irish parliament in the last ten years of its existence, when a majority could easily be found to condemn in principle the burdening of the revenue with subsidies for doubtful "charities",[37] but a majority could always be found, too, to sanction an individual grant, gives strong support to the rule that financial applications should not be entertained from non-ministerial members of parliament. At the same time one must accept the fact that if such a rule had existed in the Irish par-

[36] 26 Jan., 1786, 3rd session, 4th parliament of Geo. III. *C. J.*, Vol. 12, p. 22.

[37] Over 2,000 infants entered the Foundling Hospital each year; less than 100 were alive at the end of a year. *Ir. Parl. Deb.*, Vol. XI, p. 257.

liament, the government would have been stronger to defeat those who aimed at a free constitution; and it is probable that neither at 1782 nor at 1793 would any instalment of parliamentary freedom have been achieved.

CHAPTER IX

The End of the Struggle, 1782

Running all the time through the history of the Irish parliament is the theme of the extra-parliamentary legislative authority, the combination of Privy Councils. There were, however, several other constitutional issues which occupied the attention of parliament and government during the eighteenth century. The national party, if one may use the expression, pressed for reforms such as a time-limit to the life of parliament, permanency of the judiciary, a Habeas Corpus Act, an annual Mutiny Act.

In 1757, 1761, 1763 and 1764 heads of a bill for a septennial parliament were introduced in the Commons and sent to the executive; but they were not returned. A motion was carried in 1766 urging the Lord Lieutenant to promote the return of this Bill which, the address stated, was "Necessary to the Preservation of their fundamental Rights, and to the Promotion of the Protestant Religion in this Kingdom."[1] The existing practice of continuing a parliament, at the wish of the crown, until the death of the sovereign was stated to be "an unconstitutional and illegal custom" contrary to the Irish Constitution "of six hundred years Establishment" and to "the express Statute of *Edward* the Third, never repealed, and of above four hundred Years Antiquity."[2] In 1766 again, heads were presented to the executive; and again in 1767. On this last occasion the Speaker and the whole House attended upon the Lord Lieutenant with the draft and his Excellency said, "I will with the utmost expedition, as soon as it is in my Power, transmit to *Great Britain* the Heads of a

[1] *C. J.*, 1st May, 1766.
[2] *C. J.*, 3rd May, 1766.

Bill for limiting the Duration of Parliaments; and I will, according to your Desire, most faithfully represent them to his Majesty as the general Sense of the Commons of Ireland."[3] The bill was received back in the Commons House on 9th February, 1768, and, passing rapidly through all its stages, it received the royal assent on 16th February, 1768.

The Octennial Act—for a year had been added by the British Privy Council—represented a step forward in parliamentary reform, but, in the conditions which held in Ireland, a step in the air rather than on solid earth. The Irish parliament and the electors wanted a limited parliament because they had their eyes fixed on the parliament of Great Britain and they borrowed their notions of constitutional right and wrong from that body. In the light of the different conditions in Ireland, the grant of the Octennial Act was an illusory benefit. No doubt a strong opposition could force reforms when the clamour for bribes in the nature of patronage appointments grew too great to be satisfied or the clamourers too satiated for further satisfaction. But the opposition would be as strong without an octennial parliament as with one; only the personnel might be a little changed and a few extra titles might have to be created. So long as the executive possessed legislative power which amounted to a strangle-hold on the parliament, the struggle for a parliament limited in point of time was almost meaningless. The borough-seats were increased in value by this act, and many members of the House of Lords blessed the reform. So long as the great majority of the members of the House of Commons were elected by small boroughs, controlled either directly or indirectly by the government, an octennial act was playing with parliamentary reform.

Of greater benefit to the country would have been the passing into law of the " Heads " relating to the tenure of judgeships. The judges in Ireland held their offices at pleasure. The British Act 12 and 13 Will. 3 c.2 s.3 gave security of tenure to judges in Great Britain; but

[3] *C. J.*, 27th November, 1767.

there was no corresponding legislation in Ireland. In 1760 and again in 1763 heads were sent to the Lord Lieutenant for making the commissions of judges permanent " quam diu se bene gesserint ". In 1766 and in 1767 similar action was taken. In opening the session of 1767, the Lord Lieutenant (Townshend) announced: " It is with great satisfaction that, in obedience to his Majesty's Commands, I now meet you here in Parliament, being confident that the End of all your Consultations will be to support the Honour of the Crown, and the just Rights and Liberties of the People.

" As nothing can be more conducive to those great Ends than the Independency and Uprightness of the Judges of the Land, in the impartial Administration of Justice, I have it in Charge from his Majesty to recommend this interesting Object to Parliament that such Provision may be made for securing the Judges in the Enjoyment of their Offices and Appointments, during their Good Behaviour, as shall be thought most expedient."[4]

The Heads sent by the Commons on 15/12/1767 were therefore laid before the Lord Lieutenant with confidence that they would be returned in the form of a bill. The bill was received in the Commons and received its first reading on 12th May 1768, and a Committee of Comparison was appointed on the same date. The Committee reported alterations on the following day and the bill was at once rejected. Underlying the alterations was the old question of the power of the Privy Council to control the Irish Parliament. Here in the first matter of importance outside the financial disputes may be discovered the radical deformity of the Irish constitution. The parliament wanted to have the judges secured in office subject to the power of the two Houses of Parliament by joint address to remove them. The crown wanted to join with the legislative bodies the Irish Privy Council, and to that end the Heads were altered, making it necessary that the joint address of the Lords and Commons of Ireland should be

[4] *C. J.*, Vol. VIII, p. 161.

" certified " by the Irish Privy Council before it should become an effective instrument for the removal of a judge. There was in this no attempt to avoid the main issue which had been raised by the Commons. The judges were to be made permanent, and the Privy Council alone could not terminate their commissions; but a new issue or rather a very old but quite distinct issue was raised by the executive. It was, without doubt, perfectly in accord with the status of the Irish parliament that the consent of the Privy Council should be required. The parliament was not the complete legislature. Without the Privy Council it was nothing. In fact, the Irish parliament and Privy Council together were powerless without conjoint action on the part of the British Privy Council. To complete the logical sequence, it would therefore be necessary to introduce the external control, and this indeed was done. A second alteration in the Heads made it possible to remove the Irish judges from office by an address from the parliament, Lords and Commons joined, of Great Britain. Since the British Privy Council held the confidence of parliament, the procedure was orderly and the reasoning behind it sound. In 1771 the matter was reopened in the House of Commons, but heads were not introduced and no further parliamentary action was taken at the time. The main issue of legislative independence was fought again and again, as will be seen; but until it was at last won by the Commons, the minor question of the independence of the judiciary was not pressed.

In 1781 Heads of a Bill for making the judges' commissions permanent, subject to their termination by his Majesty on an address from the Irish parliament, were presented; and on 27th July 1782, the bill received the royal assent,[5] the Lord Lieutenant graciously congratulating the Commons for providing " for the impartial and unbiassed Administration of Justice, by the Act for securing the Independency of the Judges ".

Habeas Corpus was wrung from the executive in the

[5] 21 & 22 Geo. III, c. 50.

same session of parliament,[6] thus securing, in the words of the Lord Lieutenant " that most invaluable of all human blessings, the personal Liberty of the Subject ". At the same time, a biennial Mutiny Act was passed,[7] the previous perpetual Act being repealed. These acts, so long fought for, were conceded all at once, not from any sudden generosity on the part of the executive. They were given because they could no longer be withheld; for in 1782 Poynings' law, 10 Henry VII chap. 4, was repealed.[8]

The history of the parliamentary attack on this obstruction to constitutional development requires to be taken up from 1753 where it has been left. At no time was the campaign of the opposition, however varying the composition of its members, allowed to drop. Independent members were continually on the alert to reopen the question. Their attempts were discouraged by every possible means. In December 1757, a motion was brought forward " That every Member of this House has an undoubted Right to declare his Opinion in this House concerning the Construction of *Poynings'* Act, and to move for leave to bring in Heads of a Bill to explain, alter, or repeal the said Act without incurring any Pains or Penalties for the same; and that any Threat to deter a Member from so doing, is a Breach of the Privileges of this House ". This was negatived by 43 to 143 votes; but a few days later a motion was carried " That the Commons of *Ireland* have, and always had, a right to Petition the Throne and to express their Sense of any National Grievance in their own Words ". Having secured this seemingly harmless resolution, the opposition followed it up with a motion " that the Heads of Bills which pass this House are Petitions to the Throne ", and, consequently should not be altered by the Irish Council. There was a lengthy debate on this and the motion failed to pass. It was then moved " that the Council-Board, by alter-

[6] 21 & 22 Geo. III, c. 11.
[7] 21 & 22 Geo. III, c. 43.
[8] 21 & 22 Geo. III, c. 47.

ing the Heads of Bills which pass this House, and transmitting the same so altered into *Great Britain,* thereby transmit their own private Sense to his Majesty, and not the Sense of the People represented in Parliament ". This was lost by 38 to 127. By such motions the ancient grievance was kept before the House, even though there was little chance of securing a majority vote. When, a few days later (still in December 1757) leave was asked to bring in Heads to explain 10 Henry VII cap. 4, and 3 & 4 Philip and Mary, cap. 4, the government majority fell to 27 (75 votes for; 102 against).

By 1761, when it became necessary to summon a new parliament on the accession of Geo. III, the feeling against the origination of Money Bills by the executive was so strong that the Lords Justices and the Irish Council actually themselves remonstrated, and counselled the British Privy Council to dispense with the practice once and for ever. Their objections were resisted, and by a judicious turn of the wheel of office the British Government secured their agreement to the transmission of a Money Bill as a cause for summoning the parliament. This action of the Irish executive—that part of it which was composed of Irish residents—marks a third stage in the changing uses made of Poynings' law. It had been devised for the benefit of the parliament of Ireland; had later been adopted by the Irish executive to smother the voice of parliament; and now it became the last safeguard of the British executive against any weakening of the over-riding power in Ireland of the British parliament.[9]

The first parliament of George III was occupied in fighting for the Septennial Bill and the Judges Bill and in attacking the pensions scandal. Opportunities were taken by the minority to offer amendments to the customary loyal addresses, such as that of May 7th 1764, thanking the Lord Lieutenant for his endeavours to procure the return of several good Bills sent from the House " Tho' such Endeavours have, in a great

[9] The Money Bill in question passed the Commons by 147 to 37 votes.

Measure, proved unsuccessful ". A somewhat similar resolution was put forward in 1765 respecting the Habeas Corpus Heads, " that the Commons of Ireland consider this Bill as the best Security for their Liberties, that they had made repeated Efforts to get the said Bill transmitted, but that some malignant Spirit here has constantly defeated their just Endeavours ". This resolution was negatived by the small margin of 42 votes to 53. Although such amendments were always lost, their quiet sarcasm was not without its effect upon public opinion, a new and growing influence in Irish polities.

In 1764 a Money Bill prepared by the Commons was received back in an altered form. Clauses remitting duties were entirely omitted and the grant of a drawback was deleted. On the division only 90 members voted and the motion for rejection was defeated by 44 votes.

In 1766 various motions were made with the aim of discovering whether the popular " Heads " had been suppressed in Ireland or in England; but these failed to find a majority. Permission was sought to introduce Heads of a Bill to " explain " Poynings' law; but this was refused, the voting being 58 for and 85 against. The Deputy-Clerk of the Privy Council was summoned to the bar of the House of Commons and examined with reference to the proceedings of the Council on the Heads of the " bill for better securing the freedom of Parliament ".

A dispute over the strength of the Irish army came to a head in 1768 and had a distinct effect upon the issue between the Parliament and the executive bodies. There were two influences working at the same time to force upon the attention of the legislature the Irish military establishment. On the one hand, the excessive number of regiments and absentee officers and the lavish grant of pensions charged to the Military List were causing an ever-increasing expense with the result that, despite heavy additions to taxation, it became necessary in 1759 again to burden the nation with a debt which com-

menced with a loan of £150,000, rose in 1761 to £350,000, and in 1763 to £650,000. This was a constant source of complaint and protest in the House of Commons; and in January 1768 a Special Committee was appointed " to inquire into the application of the Money granted for the support of the Military Establishment, from the 31st Day of March 1751, and also the present State of the Military Establishment, and to Report their opinion thereon to the House ". On the other hand, the King and his British ministers were anxious to effect a permanent increase in the Irish Army, which was not governed by an annual Mutiny Act. It was the intention to bring this matter before parliament in the session 1767/68.

The Irish military establishment at 1768 consisted of 12,000 men, officers included. An English act of parliament, 10 Wm. III. chap. 1, authorised the crown to have from 1st May, 1699 a standing army in Ireland of 12,000 men. There was nothing in the constitution of Ireland to prevent any of the succeeding monarchs on their accession to the throne, from fixing the Irish establishment at a higher figure; but the parliament at Westminster would undoubtedly have looked with suspicion on any attempt to do so. George III had not altered the establishment in 1760 when he became King; but events in America turned his mind and that of his ministers to the question of increasing the strength of the defence forces of the Empire and, despite the disproportionate share of the burden already borne by Ireland, it was deemed safer to carry out the plan of augmentation in that country than in Great Britain. The Lord Lieutenant was instructed to secure the concurrence of the Irish parliament to an increase from 12,000 to 15,235 men. The only reason why the agreement of Parliament was desired was that such an increase could, in the existing circumstances of the national finances, only be met by borrowing, and an addition of £100,000 to the national debt was part of the government scheme.

To pave the way for this measure the Octennial Act

received the royal assent on 16th February, 1768. As a further concession, the 4/- Absentee Tax was passed in the Loan Act[10] minus the clause granting power to the King to grant particular exemptions. This tax had been dropped, with the other Loan Duties, in 1753 when the national debt was fully liquidated. It was not reintroduced when in 1759 a new Loan Act became necessary. In the first of the Loan Acts (3 Geo. III c. 2) the power of exemption had been given to the King and it had rendered the tax practically inoperative.

On the day on which the royal assent to the Octennial Bill was signified, the parliamentary committee on the Army Establishment presented its report to the House. It was not, from the government point of view, a pleasant document. A shelving motion was proposed and lost. A motion to return the report to the committee for further consideration was defeated. Instead, the report was sent to the Lord Lieutenant for transmission to the King under cover of a resolution, unanimously passed on 16th February 1768, suggesting the need for a reorganisation of the military establishment with a view to a reduction in its cost. The report found that " one great Cause of the extraordinary Expence of the present Establishment " was the excessive number of regiments;[11] that regiments were frequently drawn out of the kingdom for foreign service, and the upkeep of such forces until they reached their destination abroad was charged to the Irish establishment. The Committee found that the Treasury issued pay to the Paymaster-General of the Army on the basis of a full complement of men, not counting vacancies; and that the number of vacancies at the date of the report was 1,550. The savings on this head, instead of being credited to the public purse, were applied to the credit of regimental Stock-purses. The cost of the military establishment which in 1752/53 was £810,243 had ten years later risen to £1,270,380. In the same period the number of men in the regiments had decreased.

[10] 7 Geo. III, c. 2.

[11] Page ccxxiii Appendix, *Journals*, Vol. 8.

This was not exactly what the Government had expected. It was decided, however, to take the offensive boldly. The Royal reply to the Address was formal. Immediately following it,[12] the Lord Lieutenant delivered a message from his Majesty in which he declared the need to withdraw troops from Ireland " towards the necessary Defence of his Majesty's Garrisons and Plantations abroad "; that the defence of Ireland required not less than the present establishment of twelve thousand men; and it was therefore necessary to propose an increase to fifteen thousand two hundred and thirty-five. He gave a guarantee that 12,000 troops should always be kept in Ireland " as far as is consistent with such a Defence as the safety of both Kingdoms, in Case of any sudden or extraordinary Emergency, may require "; and expressed his Majesty's certainty that his faithful Commons of Ireland would cheerfully concur in this measure, for the honour and dignity of the Crown, the advantage of the public service, and the strength of the army in Ireland " which has hitherto been so much weakened by frequent draughting ".

The government thought that it could rely upon its purchased majority; but, as frequently happened on critical occasions, even extravagant salaries and pensions were not sufficient to deter members from voting according to their consciences. The government was defeated; and a motion was passed, by 105 votes against 101, drawing the attention of the Lord Lieutenant to the heavy debt of the nation and adding " that this House, finding the Nation at this Time under these Circumstances, and not having an Opportunity so late in the Session to reconsider the State and Resources of their Country, cannot give their Concurrence to any Measure which may be attended with a considerable additional Expence ". This was on May 3rd 1768. Parliament was dissolved, by proclamation of the Lord Lieutenant, on May 28th.

The new parliament which met on 17th October 1769,

[12] 19th April, 1768.

was more pliable, as a result of the efforts of the government during the intervening period. A safe majority was purchased in the usual way. The member for the City of Cork must have been exceptionally difficult, for we find in the next administration, that in addition to his Office of Prime Serjeant (£1,200 a year) and the sinecure post of Alnager (£900) he had been granted an additional salary of £1,200, the reversion of the Secretaryship of State worth £1,800 a year, the reversion for his son of the position of Second Remembrancer in the Exchequer (£800) and his wife recommended for a peerage. Yet, according to the Chief Secretary's account, he was, in 1775, " still dissatisfied, and ever will untill He engrosses the Station of Primate, Chancellor, Lord Chief Justice of the King's Bench, Provost etc. etc. etc. in his own Person ".[13] However, the main point is that a majority was secured; and on 16th November, 1769 the Lord Lieutenant again delivered a message concerning the increase of the army, asking that it " should be immediately made " and that it was a measure " which his Majesty has extremely at Heart, as necessary not only for the Honour of his Crown, but for the Peace and Security of this Kingdom." Members at first found it difficult to register their votes for approval, and the first division showed a majority of only 7 for the government, but this became 16 on the next division; and then the augmentation was supported without a division. There is a curious sarcastic note in a pamphlet published in 1758[14] which throws light on the voting in a new Irish Parliament. After writing strongly in favour of the repeal or revision of Poynings' law, and soundly rating those who voted with the government for pensions or positions of ease, the writer decides to remain anonymous because " I have a Prospect of obtaining, in a short time, a Seat in the H..se of C....ns; and notwithstanding all that I have said, may, perhaps, find it convenient to vote in a future S.....n against this very Bill which I am now defending.

[13] *The Irish Parliament*, 1775, pp. 26/27.

[14] *Remarks upon Poynings' Law : By a Gentleman of Ireland* pp. 42/43.

I have observed that when young men are obliged to give their Voice against their avowed Sentiments, they do it very awkwardly for the first Week, or two, until they become a little inured to publick Business; to avoid such an Embarrassment, I am resolved to give nothing under my Hand, but chuse to sacrifice the Vanity of an Author, rather than deprive myself for one Hour of that most substantial of all p..l.....ry Privileges, the voting according to my Interest."[15]

The Loan Act (9 Geo. III c. 2) sanctioned the increase of the Irish army to 15,235 men and provided a supply for this purpose for two years to 31st December 1771. To meet the extra expense, the government was authorised to borrow a sum not exceeding £100,000 at 4 per cent. (section 3). This amount was borrowed in 1770. The House of Commons had good reason for protesting against additional military expenditure. The following figures of the civil and military expenditure of Ireland indicate the burden of the charge which forced Flood, at a later date, to call Ireland " a barrack of Great Britain ".

Year	Civil Expenditure	Military Expenditure
1692–93	31,241 5 5	152,567 17 6
1693–94	27,566 17 7	177,318 12 3
1697–98	32,713 17 4	318,948 7 10

[15] The British Treasury, in its memorandum submitted to the Financial Relations Commission of 1895, was hardly fair in concluding that " the maintenance of the Irish military establishment, with a fifth part of it liable to serve abroad, as fixed by the Irish Act of 1769, continued to constitute Ireland's sole contribution to Imperial services during the next eight years of peace." Two-thirds of the total revenue was being spent on an army, many of whose officers had never seen Ireland. Chisholm's note on Irish army expenditure does not give an adequate indication of the burden. " As a preliminary observation it may be stated with regard to the whole of the separate expenditure for Army, Navy and Ordnance services in Ireland previously to the financial union of the two countries, on 5th January, 1817, that this expenditure was of comparatively inconsiderable amount before the breaking out of the French War in 1793, and that from 1801 to 1817 the Irish expenditure was regulated by that of Great Britain, the rateable proportion of 2/17ths of the total military and naval expenditure of the United Kingdom being chargeable to Ireland." (p. 669, App. 13. Vol. 2.)

Year	Civil Expenditure	Military Expenditure
1699–1700	50,831 12 3	381,200 16 9
1716–17	46,617 9 1	336,685 3 8
1740–41	95,887 4 1	334,525 1 10
1741–42	126,917 6 7	347,933 17 7
1753–54	160,947 12 4	403,551 18 5
1756–57	202,748 18 10	492,243 14 10
1762–63	273,139 6 0	612,979 7 8
1776–77	326,295 7 1	625,823 0 1
1782–83	583,765 18 4	609,131 1 1
1793–94	688,533 17 4	745,827 18 2
1794–95	740,879 8 5	1,553,562 5 9
1795–96	702,586 7 6	1,855,368 16 7
1796–97	661,137 1 6	2,032,130 1 9
1797–98	715,775 9 4	3,401,759 14 4
1798–99	879,581 8 7	3,865,530 9 3
1799–1800	1,025,510 4 2	4,596,762 7 0

In seeking the concurrence of the House of Commons, the Lord Lieutenant had, on both occasions, presented estimates of the additional cost which the new arrangement would entail. This, coupled with the request for agreement to the augmentation, did not mean, as has generally been stated, the transference to the House of Commons of the control of the Military List. The House still possessed its single great power, that of re-

fusing to renew the Additional Duties. The gross produce of the Hereditary Revenue was no more than £650,000 or £700,000. The net produce was less than half of the gross. The cost of the army establishment, before the augmentation, was over £1,000,000. It is therefore true to state that the control, the ultimate control, of the military establishment was in the hands of the House of Commons; but nothing that was done in 1768 and 1769 had brought this to happen. The year 1769 is not the landmark in the financial history of the Irish parliament which political historians have made it out to be. If one asks oneself why the executive came at all to the Commons for sanction to increase the army, it will be clear that the fiscal power was, already before that date, in the possession of the House of Commons.

The government, after its pains to secure a majority for a measure of such great importance, and its pleasure at the result, had hurled back in its teeth by this complaisant parliament the Loan Bill which had been prepared by the executive, sent to England as a cause for summoning the parliament, and then placed before the House of Commons. The motion for second reading was lost by 68 to 87 votes; the motion for rejection passed by 94 to 71 votes. The House then came to the resolution : " That the said Bill is rejected, because it did not take its Rise in this House ".

The Lord Lieutenant prorogued the parliament after a session which lasted a little over two months, during which it had passed only the two Supply Acts. He made a solemn protestation against the action of the House of Commons, after the manner of Strafford and Sydney. Neither the prorogation nor the protestation came as a surprise. In the Commons a resolution was passed a few days before " that it is the undoubted Privilege of this House to address the Chief Governor, to know whether he has received any Instructions or entertains any Intentions, to prorogue Parliament at an unusual Session ". His Excellency's reply was : " I do not think myself authorized to disclose his Majesty's Instructions to me, upon any Subject, without having

received his Majesty's Commands for so doing. With regard to my Intentions, they will be regulated by his Majesty's Instructions."

The Commons refused to allow the Protestation to be entered in their Journals. A minority in the Lords protested four days before it was made against having it entered in theirs.

The rejection of the Money Bill by the parliament of 1769 is noteworthy. The majority of the members of this packed parliament had solid reasons to vote on the government side; they had received special favours from the government, and those favours could and would be withdrawn if they went into opposition; yet a majority went into opposition on this question of supplies. They were prepared to burden their country with taxation, and to give to the ministry a powerful armed force; and they willingly and speedily passed a bill identical in its provisions with the Loan Bill received from England; but, on the other hand, there were amongst them a sufficient number of men who, although tied to government by special obligation, were willing to endanger their personal interests rather than acquiesce in a Supply Bill which originated outside the House of Commons. When they met again in 1771 they rejected the Money Bill because of alterations made in the Heads transmitted to the Council; and immediately after the rejection, on December 21st, 1771, fresh Heads were prepared in agreement with the altered Heads and they were sent to the Lord Lieutenant and in due course became law. In 1773 the Life Annuities Bill and the Stamp Bill were rejected because the Heads had been altered; and the House proceeded at once to pass new Heads embodying the alterations.

It is not quite fair to regard the proceeding of rejection and amendment of the Heads as utter farce. There was a big principle involved, recognised both by the parliament and by the Privy Council. The struggle which began in 1634 was continued while gradually the power of the Commons was becoming greater as the need for additional supplies became more pressing. At

the same time the crown kept using its control over public expenditure to undermine the independence of individual members. Pensions were added to the establishment by Royal Patent or by King's Letter, without consultation with the parliament. Applications made to the Commons for grants, and refused, were favourably entertained by the government if any adequate advantage could be gained thereby. The Commons, having appropriated a large proportion of the Additional Duties, were met by the government's disdain of economy, increased charges on the general revenues and continuous deficits which eventually led to further national debt. It was a game in which the country was the chief sufferer. The House of Commons was still an unrepresentative assembly; but, more important still, it contained only members of a minority caste, and the old fears were still potent enough to prevent any such injudicious action as stopping supplies. One of the "patriots" in the parliament, meeting an argument put forward by the government side that supplies could be limited or refused, compared the alternative to that of a man burning his house in order to destroy the fleas. The constitutional fleas in the Irish parliament were an abominable nuisance, but preservation of the house erected in 1661 on the ruins of 1641-1649, and extended in 1688 was of the first importance.

The minority kept up a vendetta inside the House. The pensions were attacked; the excessive military expenditure was debated for days each session; heads of bills for the independence of the judges and the removal from parliament of members who held "places or pensions" were brought forward; but there was always a majority for the government, and in any case, a defeat would have, at the worst, resulted in an untimely prorogation of parliament and a further auctioning of public offices and funds. Outside parliament, influences were at work which seemed more likely to force the hand of the executive. If the unruly Irish people, despairing that anything good could come of this strange parliament, ignored it and formed themselves

into an armed force; they were certain of defeat; the old house plus the fleas would still survive. But in 1778 the loyal population formed themselves into companies of soldiers in order to defend the house against the Irish, because there was talk of a French invasion, the Irish garrison had been weakened by withdrawal of troops to the scene of war in America, and the government had failed in time to carry out the plan so often pressed upon it by parliament of establishing a militia force. The Volunteers, as they were called, were a perfectly loyal body, led by quite the best people in Ireland from the government point of view. They were performing a plain public duty in enrolling themselves as soldiers at private expense, in order to train themselves to beat back a coastal attack, since the government of Ireland admitted that, without such assistance, the country could not be defended. There were only about 3,000 regular troops left in the country; there were soon 40,000 volunteers; and the government decided upon the fatal step of distributing to them arms and ammunition.

All this happened while the parliament was in recess between August, 1778, and October, 1779. In that interval members were enabled to see that despite the enormous military expenditure to which the country was committed in all its years of peace, despite the heavy debt which on that account had been incurred, the government was powerless to perform the most important primary duty of government and the country was left defenceless. In 1779 John Hely Hutchinson, Provost of Trinity College, Dublin, published anonymously "The Commercial Restraints of Ireland considered in a Series of Letters to a Noble Lord." The book, which was prefaced by two lines from Thompson:—

"—— I will awake a higher sense,
A love that grasps the happiness of millions,"

was condemned to be burnt by the common hangman.

The first attack was made upon the trade restrictions

from which Ireland had long suffered. At the opening of the 1779 session, to the usual address to the King, the House of Commons agreed, unanimously, to add an amendment: "We beg Leave, however, humbly to represent to his Majesty, That it is not by temporary Expedients, but by a free Trade alone, that this Nation is now to be saved from impending Ruin"[16] Two months later, resolutions were passed which are worth quoting in full, because they express not only the desires of the Irish parliament in the period when it was strongly influenced by the genius of Henry Grattan, but also the background of its aims.

"*Resolved, Nemine Contradicente,* That the Exportation from this Kingdom of its Woollen and other Manufactures to all foreign Places, will materially tend to relieve its Distresses, encrease its Wealth, promote its Prosperity, and thereby advance the Welfare of *Great Britain,* and the common Strength, Wealth and Commerce of the British Empire."

"*Resolved, Nemine Contradicente,* That a Liberty for this Kingdom to trade with the *British* Colonies in America and the *West Indies,* and the *British* Settlements on the Coast of *Africa,* in like Manner as Trade is carried on between *Great Britain* and the said Colonies and Settlements, will be productive of very great commercial benefits, will be a most affectionate mark of the Regard and Attention of *Great Britain* to our Distresses, and will give new Vigor to the Zeal of his Majesty's brave and loyal People of *Ireland,* to stand forward in support of his Majesty's Person and Government, and the Interest, the Honour, and the Dignity of the *British* Empire."

Anyone reading these resolutions must agree that the Imperial policy of Great Britain was at the time sadly at fault. America was lost in 1783; and the strongest Imperial influence in Ireland was destroyed seventeen years later.

These and the mistake in Irish policy in 1920 have been three disastrous errors in British Imperial policy.

[16] *C. J.*, Vol. 10, p. 11-12.

The restrictions on trade could not have been removed by the Irish parliament, because they had been imposed by the English and British parliaments. The encroachments of the British legislature had been a grievance of the Irish parliament since the Revolution when the power had been so unfairly used to destroy Irish trade.

In 1719, a bitter dispute arose between the Irish House of Lords and the English House of Lords which ended in the English House enforcing its claim to upset a legal judgment of the Irish House in a purely Irish case. The British parliament, in order to give definite statutory sanction to the order of the British House of Lords, passed an act (6 Geo. I, c. 5) declaring that the parliament of Great Britain had the power to make laws binding in Ireland, and that an appeal lay from the Irish House of Lords to the British House of Lords. As the power thus assumed was used mainly to hamper the trade of Ireland with Great Britain, her dependencies, and foreign countries, the opposition in the House of Commons took both matters together, and the demand for a free trade was also a demand for a free parliament. The grievances which the third parliament of George III set out to redress were the removal of the legislative assumptions of the British parliament, the repeal or amendment of Poynings' law so that bills should originate only in the Irish parliament, should in all cases be transmitted to the King, and should not be altered anywhere. Added to these, there was a demand for a short Mutiny Act, for independence of the judiciary, and for a Habeas Corpus Act.

To obtain redress of its grievances, there was one powerful lever which the House of Commons possessed, but which it was loth to use. Supplies had heretofore been voted for two years. Government spokesmen in the House tauntingly told the opposition that there was no need for any amendment of the constitutional laws because parliament was already supreme; supplies could be withheld if grievances remained unredressed. On 24th November, 1779, a motion was carried in the House, by 170 to 47, "that it be resolved that at this

Time it would be inexpedient to grant new Taxes ". Following this, the House was moved in Committee of Supply to limit the supplies to a period of six months; and the motion was carried by 138 to 100 votes.

This was the first time that the House of Commons had used its financial powers with the definite object of forcing the hand of the executive. The action, backed, it must be said, by the threat of the Volunteers, proved successful. In order to avoid the major issues involved, the British government decided to repeal the harsh restrictions on Irish trade and to leave no cause for the Irish parliament to complain that the legislative authority taken to itself by the British parliament was used to injure Irish interests. Three statutes were passed (20 Geo. III, c. 6, c. 10, c. 18), the result of which was to place Irish trade on an equal footing with British. The restrictions dating from William III and Anne were entirely removed.

It was impossible that these grudging concessions should have put an end to the constitutional disputes. It was not enough that the British parliament should in a moment of weakness repeal its own tyrannical acts; it retained the power of re-enacting them. On April 19th, 1780, a resolution was moved declaring that the King, Lords and Commons of Ireland was the only power competent to make laws to bind Ireland. The government succeeded in side-tracking the issue by suggesting that it would be found that without any declaration no further legislation affecting Ireland would pass through the parliament of Great Britain. A week later leave was asked to introduce " Heads of a Bill for regulating the Transmission of Bills into *Great Britain* ". It was refused by 105 to 130 votes. The government majority was retained by the most profuse promises of favours from the Lord Lieutenant, and when the session ended, the King created five new peers and raised eleven existing peers to higher degrees.

The attack was renewed in October, 1781, when the fourth session opened. All the grievances were in turn debated; but the Government majority was sound. On

December 11th, a motion was made for the appointment of a Committee " to examine Precedents and Records, and other Evidence touching the Construction of the Statute ", viz: Poynings' law. This was defeated by 66 to 139.

The motion was made by Flood, an independent member, who had soiled his career by taking the sinecure office of Vice-Treasurer and had afterwards been removed for his failure to support the government in the House of Commons. He was jealous that any other member should have the credit of winning the repeal of Poynings' law, and, like many people in Ireland, he guessed that the day of repeal was close at hand. The Volunteers were growing in strength. The news of the defeat of Cornwallis at Yorktown had just been received.

On December 18th, 1781, leave was given, without a division, for heads of a bill " for the better certifying of bills to be sent to Great Britain ".

When the House met again after Christmas, the opposition continued to press ahead with its claims, but the government was able to defeat any motion involving a constitutional change. On February 4th, 1782, Grattan was defeated on the question of the Judges' Commissions. In the same month a meeting of delegates from the various companies of Ulster Volunteers was held at Dungannon, Co. Tyrone, and resolutions were passed on the subjects of the claim of the British parliament to make laws for Ireland, the judges' commissions, Poynings' law, and the Mutiny Act. A week later the question of the right of the British parliament to legislate for Ireland was again raised. Grattan, who moved the resolutions, thus summed up the grievances:—" Two Councils, with more than parliamentary power; dependent judges; a Mutiny-bill lost; and governors like the Roman pro-consuls in distant provinces are sent over to fleece you ". His Declaration of Rights was met with a motion from the government side for an indefinite adjournment, and this was passed by 137 to 68. The argument, already noticed, that a denial

of the jurisdiction of the British parliament would invalidate the titles to estates given in 1692 was used with much effect. To calm apprehensions on this score, the opposition introduced Heads of a Bill, on March 2nd, for validating such British statutes as affected the grant of estates in Ireland and benefited the commerce of the kingdom. The heads were treated as analogous to the act, 10 Henry VII, c. 22, which has already been mentioned as authorising all previous British laws to be of force and binding in Ireland.

This bill was intended to be a compromise between the demand for repeal of 6 Geo. I, c. 5, and the unyielding insistence of government that no action should be taken to alter the constitution. By re-enacting British laws, the Irish parliament would show that it considered them invalid without, however, saying as much, and without asking the British parliament to renounce all claim to the right assumed by 6 Geo. I, c. 5. The Heads passed the Commons and were sent to England by the Lord Lieutenant with a strong, an almost plaintive, recommendation that the Bill should be returned unaltered.

The position stood thus when parliament broke up for the Easter recess on March 14th. By the time it met again, on April 16th, the government of Lord North had fallen and the Lord Lieutenant had been recalled. His chief secretary, Eden, a member of the British House of Commons, returned also to England, and, much to the embarrassment of the new government, raised the Irish question on the opening day of the parliament at Westminster, concluding by moving for leave to bring in a bill to repeal so much of the Act, 6 Geo. I, c. 5, as asserted a right to bind Ireland by laws of the King, Lords and Commons of Great Britain. The government quashed this irregular and undignified proceeding by announcing that in the short time since office had been taken, the Irish question had been considered and a remedy found. On the following day a Royal message was read to both Houses of Parliament in England :—" George R. His Majesty, being concerned to

find that discontents and jealousies are prevailing among his loyal subjects in Ireland upon matters of great weight and importance, earnestly recommends to this house, to take the same into their most serious consideration, in order to such a final adjustment as may give mutual satisfaction to both Kingdoms. G. R."

When the parliament met in Dublin on April 16th, " the galleries and bar being crowded with spectators, and every heart panting with expectation, about five o'clock, when the Speaker had taken the chair ", a similar message was delivered by the new chief secretary, John Hely Hutchinson, who added words of praise of Grattan, and hoped that posterity would inscribe on his tomb " that he had redeemed the liberties of his country ".[17] It was announced on behalf of government that support would be given to any declaration of right concerning the sole competence of the Irish King and Parliament to legislate for Ireland; that agreement might be expected to a bill for the modification of Poynings' law so as to prevent the suppression or alteration of bills in the Irish Privy Council and the alteration of them in England. A triennial Mutiny Bill was also suggested.

Grattan, in a stirring speech, moved an address of thanks to the King, and stated unequivocally the grievances from which the " discontents and jealousies " arose. The speech and the address might be taken as embodying the Constitution of Ireland. The people of Ireland are free. Ireland is inseparably connected with Great Britain by two bonds, a common king and a free constitution. Of the two, the liberty of constitution is the more potent bond : " the Crown is one great point of union, but Magna Charta is a greater ". The address went on to state the grievances : " There is no Body of Men competent to make Laws to bind this Nation, except the King, Lords and Commons of Ireland, nor any other parliament which hath any Authority or Power of any Sort Whatsoever, in this Country, save only the Parliament of *Ireland*. To assure his

[17] *Ir. Parl. Debate*, 16th April, 1782.

Majesty that we humbly conceive that in this Right the very Essence of our Liberties exists; a Right which we, on the Part of all the People of *Ireland,* do claim as their Birth-right, and which we cannot yield but with our Lives. To assure his Majesty that we have seen, with Concern, certain Claims advanced by the Parliament of *Great Britain* in an Act entitled " An Act for the better securing the Dependency of *Ireland* ",[18] an Act containing Matter entirely irreconcileable to the fundamental Rights of this Nation. That we conceive this Act, and the claims it advances, to be the great and principal Cause of the Discontents and Jealousies in this Kingdom. To assure his Majesty that his Majesty's House of Commons of *Ireland* do most sincerely wish that all Bills, which become Law in *Ireland,* should receive the Approbation of his Majesty, under the Seal of *Great Britain;* but that yet we do consider the Practice of suppressing our Bills in the Council of *Ireland,* or altering the same anywhere, to be another just Cause of Discontent and Jealousy. To assure his Majesty, that an Act, entitled ' An Act for the better Accommodation of his Majesty's Forces,' being unlimited in Duration, and defective in other Instances, but passed in that Shape from the particular Circumstances of the Times, is another just Cause of Discontent and Jealousy in this Kingdom. That we have submitted these, the principal Causes of the present Discontent and Jealousy of *Ireland,* and remain in humble Expectation of Redress ".

Pending the answer to this address, the parliament sat rarely and did little but formal business until it met on May 27th. In the meantime resolutions had been passed in the parliament of Great Britain for the repeal of 6 Geo. I, c. 5, and the government had announced its intention of meeting all the Irish demands. This was stated by the Lord Lieutenant to the Irish parliament on May 27th and the royal assent promised to bills " to prevent the Suppression of Bills in the Privy Council of this Kingdom, and the Alteration of them anywhere; and to limit the Duration of the Act for the better Regulation and Accommodation of his Majesty's Forces in this Kingdom to the Term of two Years ". Grattan's reply, after expressing the thanks of the nation, contained some interesting references to the work which lay before the parliament: to reduce the excessive cost of collecting the revenue; to ensure that a full return was given for grants bestowed by parliament for public works; to rescue the country from corruption. That, in the first flush of his victory, Grattan should thus have placed his finger on the cancer which infected the country is proof of his statesmanship. He did not think that a free constitution signified an immediate removal of the system which had been rotting administration for centuries. He hoped in time to create a self-respecting and an honest administration. The British government decided otherwise.

[18] 6, Geo. I, c. 5.

At the end of the fourth session of the fourth parliament held in the reign of Geo. III, the royal assent was given to the bill " to regulate the Manner of passing Bills, and to prevent Delays in summoning of Parliaments " (21 and 22 Geo. III, c. 47). In future a parliament should be summoned by licence from the sovereign without the need of certifying any bill to Great Britain. The executive was obliged to transmit to his Majesty " all such bills, and none other, as both houses of Parliament shall judge expedient to be enacted in this Kingdom ", and such bills, returned to Ireland under the Great Seal of Great Britain " without addition, diminution, or alteration, and none other, shall pass in the Parliament of this Kingdom ". This is the end of the history of the Act 10 Henry VII, cap. 4, better known as Poynings' law.

At the same time the Habeas Corpus Act (c. 11), the biennial Mutiny Act (c. 43), the act establishing the authority of the Irish House of Lords as the final court of judicature (c. 49), and the Act making permanent the commissions of the judges *quam diu se bene gesserint* (c. 50) became law. An act was also passed which is of interest as evidence of the clue to much that may

seem to the stranger obscure in the history of the Irish parliament. " Whereas . . . upon occasion of the rebellions which subsisted in this Kingdom in the years 1641 and 1688, divers statutes were made in the Parliament of England, and since the union in the Parliament of Great Britain, for settling and assuring the forfeited and other estates in this kingdom, and for the regulation of trade, and other purposes; and whereas it is at all times expedient to give every assurance, and to remove every apprehension concerning the title of lands . . .", all English statutes for settling forfeited estates, and all private acts relative to landed property, as well as acts concerning commerce or seamen, were made binding in Ireland.

Grattan referred his triumph to the Volunteers,[19] and on the opening day of the 1783 session, the House of Commons unanimously came to a resolution " That the thanks of this House be given to the Volunteers, for their spirited endeavours to provide for the protection of their country, and for their ready and frequent assistance of the civil magistrate, in enforcing the due execution of the laws ".

[19] See his speech of July 19th, 1782.

CHAPTER X

The Administration of the Revenues Before 1793

Before 1793, the administration of the public revenues of Ireland was conducted on the ancient model of the Exchequer, derived from the early English system of public financial management. The Court of Exchequer in Ireland was instituted within the century following the date of the first English conquest, just as the Exchequer in England had been established there on the conquest of the country by the Normans, from whom the institution, like the parliamentary institution itself, was originally derived. The Irish Court of Exchequer was divided into two parts: the Superior Exchequer, a Court of Law and Equity in which all revenue actions were triable without prior hearing in any other court; and the Inferior Exchequer, which was the Public Treasury, or, to use the more correct term for the early period, the King's Treasury in Ireland. Until 1793, all the old offices of the Exchequer were duly filled, even though the duties of some of them had long ceased to exist. In consequence of this, many of the higher offices were sinecures; and in a list of State officials who paid Absentee Tax in 1783 one finds that the Chancellor of the Exchequer, the Clerk of the Pleas, the Vice-Treasurers, and the Clerk of the Pells, all seemingly important and responsible officers, were included. The work of these dignitaries was performed by subordinates. The Lord High Treasurer and the two Chamberlains had in fact no duties to give to subordinates to perform, as their offices were purely decorative. As the organisation of the Exchequer was complex and the system quite different from anything known in the treasuries of modern states, a description is given, in tabular form, for economy of space and to facilitate reference, of the offices, duties, emoluments and privileges.

Students of the subject may be referred to many sources of information. The best general guide is the manuscript account of the Revenue of Ireland "with the Antient and present method of Collecting and accounting for the several Branches of it." This was written by Lord Chief Baron Hely in the last decade of the 17th century, and is in the Redesdale Papers in the British Museum (Vol. XIII., Additional 36651 fols. 7–26). The Commons Journals give odd pieces of information (Vol. II, pp. 798–9; Vol. VIII, Appendix, p, CCCCXXXI, which gives a schedule of salaries in the Exchequer in the year 1771; and Vol. XI., Appendix p. C, in the Report of the Public Accounts Committee made on November 7, 1783). The Reports of the Deputy Keeper of the Public Records in Ireland may be consulted, viz.: 24th Report, Appendix VII.; 33rd Report, Appendix II.; 36th Report, Appendix, giving an account of Pipe Rolls V., Ed. I. and VII., Ed. I. The following manuscript sources may be mentioned: B.M. Addl. 4767, folio 112, a 1559 document giving fees and allowances of Exchequer (among other) officials in Ireland; B.M. Addl. 4767, folios 36 *et seq.*, which gives the Irish Establishment in 1676; B.M. Addl. 32862, folio 233; B.M. Addl. 15893, folio 305; Lansdowne MSS. No. 159 (B.M.) folio 282; and B.M. Addl. 31237 folios 17 *et seq.* This last is a good general account of the Irish Exchequer without any attempt at detail such as is given by Chief Baron Hely.

Of general literature on the subject, best is G. E. Howard's "Treatise of the Exchequer and Revenue of Ireland," published in 1776. A work which the student of Irish (or British) financial history cannot overlook, however appalling the detailed content of it, is H. W. Chisholm's Public Income and Expenditure Accounts, 1688–1868. Part II., Appendix 13, deals with the Public Revenues of Ireland. The following works are of comparatively minor importance: Sir William Betham's "Origin and History of the Constitution of England and of the Early Parliaments of Ireland," 1834; the whole works of Sir James Ware concerning Ireland, edited by Walter Harris, 1739; Sir Jeffery Gilbert's "Treatise on the Court of Exchequer," 1758; Richard Cox 'Hibernia Anglicana," 1689 (Part I., p. 108 and p. 118); Hubert Hall's "The Red Book of the Exchequer," Part III., pages 974–6. Hall's work on the English Exchequer and the works of Madox, Poole, Price, Raynor, and Thomas enable one to compare the organisation of the English Exchequer and show the machinery on which the Irish Exchequer was modelled. The "Introduction to the Study of the Pipe Rolls," Vol. III. of the Pipe Roll Society Publications, is informative. The Fourteenth "Report of the Commissioners appointed to Enquire into the Fees, Gratuities, Perquisites, and Emoluments, which are or have been lately received in certain Public offices in Ireland; and also, to examine into any Abuses which may exist in the same; and into the present Mode of Receiving, Collecting, Issuing, and Accounting for Public Money in Ireland," Parliamentary Paper 102 of 1814, gives historical information as well as an account of the changes made in 1793.

I.

THE SUPERIOR EXCHEQUER

Office	Duties	Emoluments per annum
Lord High Treasurer.	Titular head of the Exchequer and chief judge of the court. In practice, no duties, as the office was honorary.	£365.
Chancellor of the Exchequer.	A judge in matters of equity. Had the custody of the seal of the Court of the Exchequer. Ex-officio, a member of the Board of Accounts. "Generally held as a sinecure and often by an Absentee" (B.M. Addl. 31237).	£1,200.
Lord Chief Baron.	In practice was the chief judge of the Court of Exchequer in matters of law, information and pleas. Was a judge in all matters of equity, law and revenue. A member of the Ancient Board of Accounts (10 Henry VII., c. 1.)	£1,000 until 1782, then increased to £1,700.
Second Baron. Third Baron.	Judges in law, equity and revenue. Members of the Board of Accounts.	£800 until 1782, then £1,200 each.
Fourth Baron.	Judge in law, equity and revenue. Member of the Board of Accounts: first appointed in January, 1784.	£1,200.

NOTE:—
The Barons took the oaths of the various Collectors of Revenue other than Sheriffs, on their attendance, with the Auditor-General, to prove their yearly accounts. By the Act 10 Henry VII, c. 1, they were Commissioners for the Treasury Accounts, together with the Lord Chancellor of Ireland and the Chancellor of the Exchequer. The Barons became entitled to fees on passing each account.

Attorney-General.	All informations of frauds on the Customs were put into court at the instance of the Attorney-General. His duties in connection with the Exchequer were slight. He was assisted by the Solicitor-General, whose fee from the Court of Exchequer was also £88 6s. 8d. per annum.	£88 6s. 8d.

Office	Duties	Emoluments per annum
Auditor-General.	See under Inferior Exchequer. Was an officer of both divisions of the Exchequer.	——
Surveyor and Extensor General of Lands.	Had charge of surveys of Crown lands, and, in disputed cases, appointed surveyors to determine boundaries.	£500.
Chief Remembrancer.	All informations upon penal statutes, forfeitures, etc., were filed in his office. Entered all Court of Exchequer judgments relating to the public revenues. Held all moneys deposited in the court. He received the proceeds of sales of revenue seizures and paid the amounts to the Commissioners of the Revenue. Had custody of the Red Book of the Court of Exchequer. Administered the oath to the sheriffs on their attendance in Court to prove their accounts. He had special duties in connection with the due accounting for the duties of Customs and Excise; each year he issued to the Customer and Comptroller at every port blank "foly-ated" parchment sheets called Port Books. The Customs and Excise accounts were kept in these books, which were at the end of the accounting year returned to the Exchequer for audit. He had a staff of five attornies, called secondaries, a silacer and clerks. In practice, his duties were performed by deputy.	£51 19s. 2d. In addition he was entitled to a multiplicity of fees, and the post was worth about £2,000 a year.
Second Remembrancer.	Received the accounts of the Hereditary Revenue, other than that from Customs and Excise. Took proceedings against the revenue collectors if their accounts were belated. Issued distraint summonses to the sheriffs in cases reported to him by the Clerk of the Pipe where it was necessary to seize the lands of the crown debtor (see under "Clerk of the Pipe.") Had a staff of two attornies and some clerks.	£53 2s. 3d. Received also fees.

Office	Duties	Emoluments per annum
Clerk of the Common Pleas.	An officer of the Court directly concerned with the legal proceedings; kept records of cases; had no duties on the accounting side of the Exchequer. His office was part of the Remembrancer's Office.	Worth between £2,500 and £3,000 a year.
Clerk of the Pipe and Chief Engrosser of the Great Roll of the Pipe.	Prepared annually a list, or parchment roll, of all Crown debts accounted for in the Court, of all debts in arrear and not answered for by the sheriffs on passing their accounts. This was called the Great Roll of the Pipe. From this the sheriffs' half-yearly charge was made out. He directed summonses to the sheriffs to distrain on the goods and chattels of Crown debtors on his rolls. In the absence of goods and chattels sufficient to satisfy the debt, he passed the case to the Second Remembrancer. It was also part of his duty to check the accounts of the sheriffs. He drew and engrossed all leases of Crown lands.	£306 12s. 0d. He also had various fees on passing sheriffs' accounts and fees on engrossing Crown leases. The Office was worth £1,200 a year.
Comptroller of the Pipe and Second Engrosser of the Great Roll of the Pipe.	Assistant to the Clerk of the Pipe.	£53 10s. 0d. until 1790. In 1790 an increase of £400 per annum was given. Received fees from the public and from the sheriffs.

Office	Duties	Emoluments per annum
Summonister and Clerk of the Estreats (i.e., Extracts).	He had the responsibility for the due accounting by the sheriffs for the casual revenue. His process to the sheriffs to collect the amounts due, issued twice yearly at Hilary and at Trinity terms, was called the Summons of the Green Wax. The Summons contained a list of all fines, forfeited recognizances, etc., due to the Crown. If there were arrears of this revenue in the sheriffs' accounts, the Summonister certified them to the Pipe Office, and they were included in the Great Roll of the Pipe.	£43 18s. 6d., plus fees.
Transcriptor and Foreign Apposer.	When the sheriffs presented their accounts of Casual Revenue, the Transcriptor compared the charge with that of record in the court, and notified the Pipe office of the correct amount.	£53 15s. 0d.
Serjeant-at-Arms.	Attended upon the court of Exchequer; executed processes of contempt.	£100.
Second Serjeant.	Assisted the Serjeant-at-Arms.	£30 6s. 0d.
Pursuivant.	In case of misdemeanours by the sheriffs or any officer of the Court of Exchequer, they were committed to the custody of the Pursuivant.	£79.
Marshal and Usher.	Two distinct offices held always by the same individual. The Marshal had the custody of Crown debtors whose persons were arrested. The Usher guarded the court and supplied it with stationery, papers, books, etc.	£24 2s. 6d. as Usher; £280 as Marshal.

II.
THE INFERIOR EXCHEQUER.

Office	Duties	Emoluments per annum
Lord High Treasurer.	See under Superior Exchequer.	
Vice-Treasurer, Receiver-General and Paymaster-General and Treasurer-at-War.	Was the officer ultimately responsible for all the King's Revenue, for its receipt, its safe custody, and its proper issue. As Receiver and Paymaster-General, he authorised payment of the expenses of the Civil Establishment. The balance of the total revenue was then made available for payment of the Military List, the charges of which were defrayed by the Treasurer-at-War, and Paymaster-General. The offices were held jointly by three, sometimes two, persons who were ex-officio members of the Privy Council of Ireland and of the Privy Council of Great Britain. In fact, the Vice-Treasurer's duties were slight and the responsibility was not great, as his Deputy and the Teller performed the functions of the office.	£50. The principal emolument of these offices came from a fee which the Vice-Treasurer was entitled to retain of 6d. per £ issued from the Exchequer. This fee was deductible from the aggregate sum issued; but the Vice-Treasurer was debarred by a section in the Loan Acts from charging it on issues of the proceeds of the Loan Duties. In the case of the Additional Duties, the fee was deducted in the first instance and then, according to statute, accounted for to the Exchequer as an additional aid. The fees were therefore confined to the receipts from the Hereditary Revenues. The average amount enjoyed by the Vice-Treasurers after paying the expenses of the office was £8,000 to £10,000 per annum. From Christmas, 1775, the Vice-Treasurer, instead of receiving the ancient fee of £50 with the right to deduct a poundage fee from issues out of the Exchequer,

Office	Duties	Emoluments per annum
Vice-Treasurer, Receiver-General and Paymaster-General and Treasurer-at-War—contd.		was paid £13,000 per annum salary, to include the expenses of the office (C.J., Vol. 9, App. dlxvii.) The amounts of fees shown in the Commons Journals for 1769–'70 and 1770–'71 are, net, £8,977 and £12,818 (App. page cccxliii. and cccxlviii., Vol. 8). The fees for seven years to 1775 are given in Vol. 9, App. page ccccxxviii. The net fees received in the fifteen years ended 1775 averaged £11,510 per annum (ibid page ccccxxix).
Deputy Vice-Treasurer or Paymaster.	Appointed and paid by the Vice-Treasurer. Did the work. The Vice-Treasurer also paid £80 to a First Clerk; £80 to a Clerk of Receipts; £80 to a Ledger-keeper; £20 to a Keeper of the House for Receipt; £34 to a Housekeeper (*Commons Journal*, Vol. 9, App.).	Was paid a salary of £500 a year by the Vice-Treasurers out of their emoluments.
Teller.	He was the State Cashier in the Office of the Receiver and Paymaster-General. Received the revenue and issued receipts (written on parchment, called Acquittances), which, before reaching the sheriff or other person paying in revenue, were sent to the Chamberlain (see below). He also issued sums from the Treasury on orders from the Treasurer or Vice-Treasurer. Such payments were made by means of debentures and the Teller transmitted the warrants of the debentures to the Clerk of the Pells.	Received £260 per annum from the Vice-Treasurers and £50 per quarter when the accounts were passed; and, as a perquisite of office, was allowed to retain the profit made from the use of balances of public moneys in his hands until such sums exceeded £30,000 when the interest was applied to the discharge of debt. As an instance of the value of the

Office	Duties	Emoluments per annum
Teller—contd.	He had a staff consisting of one first Clerk, one Clerk of Receipts, one Ledger-keeper and four Assistant Clerks, all paid by the Vice-Treasurers.	office, the Teller of the Exchequer was granted an annual allowance of £1,750 from 1783 as compensation for loss suffered by him as a result of the depositing of public moneys in the Bank of Ireland (Report of Public Accounts' Committee, 7th of February, 1785).
Chief Chamberlain and Second Chamberlain.	Two separate officers, with practically no duties. The office had once been important. They transmitted Exchequer Acquittances, received by them from the Teller, to the Clerk of the Pells.	£52 3s. 4d. each.
Auditor of Foreign Accounts and Imprests.	Audited the accounts of imprests for the purchase of arms, ammunition, army stores and provisions, construction of fortifications, public works.	Salary £121. Received fees in addition. When the office was abolished in 1798 (38 Geo. III, c. 56) the holder was granted a life annuity of £1,000 and his wife a life annuity of £1,000, by way of compensation.
Clerk of the Pells.	He got his name from the Pellis Receptorum or Parchment Roll of Receipts in which it was his duty to enter all Receipts or Acquittances received by him from the Teller by way of the Chamberlains. He countersigned all Acquittances. His record or Pellis was intended as an audit check upon the Vice-Treasurer and the Teller; and he could at any time state the amount, for any period, of Exchequer Receipts.	Salary, £100 until 1758; £150 in 1758; £200 from 1759. The chief emolument of this office was derived from a right which the Clerk of the Pells had by ancient prescription, of retaining 10s. per £100 in respect of all regular issues made from the Exchequer, but, as in the case of the Vice-Treasurer's fee of 6d.,

Office	Duties	Emoluments per annum
Clerk of the Pells —contd.	He received and entered in his Roll all warrants of debentures received from the Teller; thus acting as an audit check on the payments side of the Vice-Treasurer's accounts. Once a year the Clerk of the Pells supplied to the Auditor-General lists of the Exchequer Acquittances countersigned by him. Had a staff of writers. During Wentworth's Administration (1633–1640) the Clerk of the Pells was taken from the clerks' room and put with the Vice-Treasurer, by whom no receipts could be given or payments made except in the presence of the Clerk of the Pells. "By which means he will be kept a controul upon the other, and myself weekly understand, what is issued and what remains in Treasure" (*Letters and Dispatches*, Vol. I, p. 191). From Christmas, 1775, the Clerk of the Pells, instead of receiving the fee of £200 with the right to a poundage on Exchequer issues, was granted a fixed annual salary of £3,850 (to include all the expenses of his office).	this right was withdrawn, by Act of Parliament, in the case of the Additional and Loan Duties. The average amount of the fees in the 18th century was £3,000 per annum. Charles James Fox who held this office sold it in 1775 for £30,000, plus a life pension of £1,700 a year. (*Harcourt Papers* x. 322). The Pells fees amounted in the five years ended 25/3/1760 to £14,348 (*Comm. Jour.*, Vol. 9, App.).
Auditor-General.	Received yearly the records of the Clerk of the Pells, and of the Chamberlains. From these the charge of the Vice-Treasurer (and Teller) was ascertained. The Auditor-General kept the Crown rentals and deeds of assignment of Crown lands. He compared with the rent rolls the amounts received in the Exchequer for which Acquittances had been issued, and notified arrears to the Pipe Office for the issue of summonses to the defaulters.	Salary, £265 plus fees on passing accounts, enrolling patents, King's Letters, Exchequer Orders, Letters of Attorney, Probate, etc.

Office	Duties	Emoluments per annum
Auditor-General —contd.	The Customs, Excise and Hearth Money Accounts were stated by the Accountant-General of the Revenue to the Auditor-General, and vouchers produced in support of the accounts. The Auditor-General examined the accounts of the various collectors; made an abstract of each account under defined general heads; engrossed it on parchment; and, together with the collector, attended upon the Barons of the Exchequer before whom the collector swore to the faithfulness of the account. The Auditor-General received also the sheriff's accounts, duly certified by the Summonister, the Foreign Apposer, the Clerk of the Pipe, the Second Remembrancer, and the Clerk of First Fruits and Twentieth Parts.	
Clerk, Remembrancer and Receiver of the First Fruits and Twentieth Parts.	The First Fruits and Twentieth Parts were granted in the reign of Queen Anne to the bishops and clergy of the Church of Ireland in trust for building and repairing churches. The Clerk had charge of the receipt of the profits of First Fruits and Twentieth Parts. He paid out to the trustees the sums received in the Exchequer. He examined that part of the Sheriff's Accounts which concerned his branch of the receipts and certified to the Auditor-General.	£38 14s. 9d.

Two separate offices in the Court of Exchequer were on many occasions held by the same individual; while, at other times, one office was granted to two or more

persons jointly. The offices of Treasurer and Clerk of the Pells, for instance, were held by Sir Francis Annesley in the reign of Charles I; and the Office of Summonister was jointly held.[1]

It will be noticed that the offices, taken from the early English model, had not developed along the same lines.[2] The Chancellor of the Exchequer in Ireland had not in 1793 become the important figure he then was in the British political system. In England, the offices of Vice-Treasurer and Chancellor of the Exchequer were, since Henry VII, held by the same person; and, after the Revolution, the Exchequer in England developed, though retaining, until the middle of the nineteenth century, many of the antique forms and offices of the original Court of Exchequer. In Ireland financial independence was not so speedily secured, and until 1793 there was little development on the administrative side of the Exchequer. In England, the office of Lord High Treasurer was suppressed and the Treasury was put into commission after the death of Queen Anne. In Ireland the Lord High Treasurer's post was not put into commission until 1793. In Great Britain, the Chamberlains were abolished in 1782. Their offices, though devoid of duties, were still continued in the Irish Exchequer. Up to the end of the eighteenth century, the higher officers of the Court of Exchequer in Ireland performed their duties by deputy, viz.: the Chief and Second Remembrancer, the Clerk of the Pipe, the Comptroller of the Pipe, the Transcriptor and Foreign Apposer, the Clerk of the Pleas, the Clerk of the Pells and the Pursuivant.[3] The Irish Court of Exchequer was the happy hunting ground of parliamentarians who were prepared to sell their votes to government. It became the recognised practice for a father, himself holding a sinecure post, to purchase a seat in

[1] Patent and Close Rolls of Chancery. Cal. Vol. III. pp. 445/6.

[2] "From the peculiar situation of Ireland in respect of its Executive Government the English system has been departed from in several particulars sometimes on the authority of Irish Statutes and more frequently on that of the Sovereign alone."—(*B. M. Addl. MSS.*, 31237.)

[3] See *1st Report of Select Committee on Finance*, 1817. (P.P. 366 of 1817.)

parliament for his son, so that the son might bargain with government for employment. Practically the only way to obtain a well-paid government post was to enter parliament. The member could then not only look after his own interests, but recommend for the minor posts in the revenue department his relatives and friends whom he wished to oblige. The member for Londonderry, Mr. Thomas Connolly, in 1775, quarrelled with Lord Harcourt, the Lord Lieutenant, "because His Excellency refused him the exclusive Nomination to all Revenue Employments in the Counties of Derry and Donegal"[4]

The following letter[5] from the Prime Minister of Great Britain (Newcastle) to the Lord Lieutenant of Ireland (Devonshire), dated 2nd Jan., 1756, is a good illustration of the manner in which the tenure of the posts in the Irish Exchequer could be altered:—"The most reasonable Man, That I have met with, is My Lord Cholmley. It was necessary to do something *considerable*, for my *Old Friend* Sandwich and *My New Friend* Wellbore Ellis; The produce of the Vice-Treasurer of Ireland, amounting by a Computation[6] for Six Years last past, to £8,000 pr. An., would well bear Three, and a great Acquisition is by that Means made of a very considerable Employment to the Crown; It was not reasonable, That Lord Cholmley should suffer. It was at first proposed, That He should retain the Half, and the Two New Ones have only One Quarter, Each; But that was found impracticable, and liable to great objection in the Constitution, and besides, would not have answer'd Lord Sandwich's Purpose; The only Way therefore left was, To give the Employment to Three, as it was before given to Two, by three equal Divisions, and the Difference must be made up to My Lord Cholmley by the Government, which can last no longer,

[4] *The Irish Parliament*, 1775. MSS. edited Wm. Hunt. (Dublin, 1907.) "All considerable offices for life are possessed by those to whom the reversions were granted; and these have been generally followers of the chief governors or persons who had interest in the court."—(Swift: *Drapier's Letters.*)

[5] *B. M. Addl. MSS.*, No. 32862, folio 5.

[6] *B. M. Addl. MSS.*, No. 32862, folio 233.

than during His Continuance in that Employment. I suppose the Difference will be about £1,200 pr. An. And I submit it to your Grace, whether That should be done by Pension on the Irish Establishment, during Pleasure, or by King's Letter, directing so much to be paid out of the Treasury in Ireland. My Lord Granville says, That the First is the most advisable, as the last Method, is only practiced in The Case of The Lord Lieutenant, when The Concordatum falls short.

But My Lord Cholmley is so reasonable, That He does not desire either, 'till the Parliament is up; so—we shall have Time to do which ever you think best, and when the Parliament is over, I hope, there can be no objection to this, which seems so reasonable in itself, and was so necessary to satisfy Sandwich, and Ellis, What is done for Sandwich pleases extremely in a certain Place. . . . . ."

The organisation of the Court of Exchequer was lavishly extravagant in relation to the duties actually performed by it. The Superior Exchequer dealt with the legal issues arising from the assessment and collection of the taxes. Apart from its functions as a court of law, the management of the assessment and accounting of the Casual Revenue was in its charge. It was so because this revenue was derived mainly from court fines, forfeited recognizances and other charges which involved court action. The whole basis of this revenue was such as rendered it more suitably to be dealt with by lawyers than by actuaries or accountants. The Crown lands were managed by officers of the Higher Exchequer for much the same reason. Treating the Auditor-General as an officer of the Superior Exchequer, one might say in addition, that the work of the present-day Audit department was performed of old in the Superior part of the Exchequer. The Chancellor and the Barons were, together with the Lord Chancellor, Commissioners of Accounts.

The Casual Revenue was comparatively insignificant in the public accounts, amounting to no more than £25,000 a year. The Exchequer, as an assessing and

accounting institution, had developed at a time when the Crown Rents and Casual Revenues formed the principal part of the King's treasure, and had ceased to be capable of development when the great increase in the revenues made it necessary to devise new machinery of financial administration. A sharp division on the collection side enables one to understand what the development meant, and how inadequate the old Exchequer arrangements had become to meet the new conditions. It is not so easy to mark a line of cleavage between the system of revenue administration in the Court of Exchequer, and the later system when the Treasury emerged, and the Exchequer Branch of the Exchequer and Audit Department was at last the only remnant of the ancient institution. The sheriff as collecting officer represents the old organisation; the officer of Customs and Excise, as a subordinate in the great Revenue Department, represents the new.

The sheriff, " this main pillar of our freedom, this most valuable blessing which of all the people on the globe they of our glorious constitution only enjoy ",[7] was originally the collector of all the king's revenue. One sheriff was appointed annually for each county, the appointment being made by the Lord Lieutenant,[8] who had the advice of the Lord Chancellor, while he in turn was advised by the circuit judges. The choice was made from a list of three persons nominated by the outgoing sheriff. As the basis of assessment became complicated, and the revenue was no longer solely confined to Crown rents and fines imposed by the Court of Exchequer, the Commissioners of Revenue were appointed for the

[7] *A Treatise of the Exchequer and Revenue of Ireland.* G. E. Howard, I, xi.

[8] " Nominally, the appointment is in the hands of the Lord Lieutenant and Council; but in reality, it rests with the head of the party, in each county, who supports the administration of the time . . . The Sub-Sheriff is the person who officiates, who is commonly some attorney in the county, and is the law agent for all dirty work and the ready minister of corruption . . . I was informed, from good authority, that the situation of sub-sheriff for the county of Tipperary, was worth £2,000 per annum. In matters of arrest, a writ might as well be sent to the captain of a Newfoundland trader, as to a sheriff's court; it would be an immediate fee in the pocket of the sub-sheriff, who would apprize the debtor of his danger, and, in return, receive the expected present."—Wakefield, *An Account of Ireland Statistical and Political* (1812). Vol. I, p. 346.

management of various Customs and Excise duties and the Hearth Tax; and the sheriffs in later times had the collection only of the casual revenue. There were many good reasons why this shrinkage of duties occurred. One, which has already been mentioned, was that the " business-man's " collection of the duties during the farm of the entire Irish revenue in Charles II's reign showed up the weakness of the former method of collection. Another was that the establishment of a Customs and Excise and Hearth Tax and Ale Licences organisation for assessment and collection provided a ready-made alternative, with a simplification of official procedure. A third was the existence of glaring abuses in the system of collection by the sheriffs of counties. The Quit Rents, providing a revenue of £60,000 a year, were collected in two instalments by the sheriffs but they did not account to the Exchequer till the end of the year, so that they had large sums of money in their hands; and their bailiffs, who collected the money, were not temptation-proof even if the temptation had not been so great and official loyalty so poor. It was also complained that " Great Arrears were found to be returned, the Sheriffs either out of favour to particular persons or Regard to persons of quality neglecting to levy the Rents from them;"[9] and, finally, it was thought that more strict control than could be exercised over the sheriffs would improve the yield and lessen official dishonesty. " Officers who depend on the Farmers or Commissioners of the Revenue for their Offices, which is their Bread, and are lyable to be removed on the least Apprehension of Neglect or other default in them will be more strict and circumspect than such as have not that dependence."[10]

The collection of the Crown and Quit Rents was taken out of the hands of the sheriffs by the farmers of the revenue in 1668 and it never reverted to them. From 1682 the method of collection was, as described by Chief Baron Hely, viz. " The whole Kingdom is divided into

[9] *B.M. Addl. MSS.*, 36651, folio 8.

[10] Ibid.

several Districts according as the land lay in compass for the Ease and Conveniency of the Collection (the Division of Counties being unequal in regard some of them were of too great an Extent for a Collector and some too little) and a particular Collector was appointed for each District, who likewise collects the other Branches of the Revenue arising in that District." The Court of Exchequer remained the assessing office and there the records were retained. " Under the Head of each District are placed the particular Counties and Baronies, and under them the Tenants Names, Denominacons of Lands, the Number of Acres of the whole, and of each Denominacon in the Grant, the Rent reserv'd on the whole and the Apportioned Rent of each Denominacon with the Reduced Rent (if there be any Reducement) each in distinct Columnes." " The Rent roll for each District according to this forme issues out once a Year to each Collector and is his charge, he collects these Rents and gives an Account to the Commissioners of the Revenue monthly of what is in his hands of this and the other Branches of the Revenue, which he pays into the Treasury from time to time as there is occasion; and about a month after Christmas in every Year passeth his Account for the whole."[11]

Meanwhile the Exchequer Organisation remained as intact, as complicated and as expensive as before this change. The sheriffs were confined to the collection of the Casual Revenue. For the purpose of this collection the machinery was cumbrous. It contained the Clerk of the Pipe, the Comptroller of the Pipe, the Clerk of the Estreats or Summonister, the Transcriptor and Foreign Apposer, the Chief Remembrancer, the Second, or Treasury Remembrancer, and finally the (essential) Auditor-General. All of these officers participated in the assessment and collection of the Crown Rents and Casual Revenue. They were checks upon each other, survivals of the bad days when even civil servants were swashbucklers. The machinery worked after the following crude fashion.

[11] Ibid., folios 9-10.

The Casual Revenue was composed of the Hanaper fees, the charge of the Green Wax, First Fruits and Twentieth Parts, and Custodiam Rents. The fees of the Hanaper consisted of charges for sealing patents and for original writs.[12] Half of the fees for original writs were paid to the Lord Chancellor as a perquisite of his office; the other half passed to the crown. The rates charged varied with the nature of the writ. The fee for patents and grants of lands and offices was £1 8s. 3d. Of this fee, 2/- was paid to the chancellor, 5/- to the master of the rolls, 6/3 to the clerk of the hanaper, and 15/- to the crown. All patents and writs were drawn up by the Clerk of the Hanaper and a copy kept by him together with a record of the fees charged, to which he subscribed on oath a certificate of accuracy and accounted for the fees at the end of each year. Against his receipts the Clerk produced the acknowledgments given to him by the law officers for their share of the fees, and Exchequer Acquittances for the balance paid into the Treasury; but portion of the Crown fees could be spent, on the warrant of the Lord Chancellor, on expenses of the Court of Chancery; and the Lord Chancellor's warrants for these expenses were accepted as vouchers, together with the Exchequer Acquittances, in balancing the Hanaper accounts.

The Green Wax comprised fines, and forfeited recognizances, viz. Fines levied either in the King's Bench, Court of Common Pleas, by the Assize justices or at the Sessions; and recognizances forfeited in any court. The responsible clerk in each court extracted the amounts payable and made a return to the Second Remembrancer's Office in the Court of Exchequer. The Second Remembrancer added the sums due from proceedings in the Court of Exchequer and transmitted the returns to the Clerk of the Estreats and Summonister, who made out the charge to the sheriffs of the counties to collect. This charge from the Exchequer was called the Summons of the Green Wax (because it was sealed with

[12] The name Hanaper was derived from the hamper or basket in which the writs were stored.

green wax). It was issued twice a year, together with the Summons of the Pipe—arrears from previous collections—and the collection of these amounts comprised the Exchequer duties of the sheriffs.

The First Fruits, originally a Church due, were retained to the crown by the act 28, Henry VIII. chap. 8. Under this act a Commission was appointed to make a valuation of all church benefices, and the books of valuation were kept in the Court of Exchequer in the Chief Remembrancer's Office. The act required that a clergyman on his appointment to a benefice should pay to the crown the full amount of the valuation in the first year of his enjoyment of the benefice. On the death of an incumbent, particulars were sent by the bishop of the diocese to the Chief Remembrancer. The new clergyman had to apply to the Chief Remembrancer for a certificate of assessment, called a " Constat ", which he brought to the Clerk of the First Fruits. He paid to this official the amount of the tax, or else gave bonds covenanting to pay the amount in four instalments, covering two years, i.e., at half-yearly intervals. By choosing the instalment method, the incumbent had to pay 6s. 8d. extra for each instalment, being the fee due to the Clerk of the First Fruits for notifying the local sheriff to collect the instalments. The Clerk of the First Fruits gave the incumbent a certificate without which he could not enter into possession of the benefice.

After his first year of office an incumbent had to pay Twentieth Parts, that is, one-twentieth of the valuation or one-twentieth of the amount of the First Fruits. The right of the crown to this tax depended upon the statute 28 Henry VIII, chap. 14, and by this act the bishop of the diocese was appointed collector. Each bishop had a copy of the valuations of the benefices in his diocese and was debited with the collection by the Auditor-General of the Exchequer. The tax was due on 1st January each year, and on 1st April the bishop made a return to the Auditor-General of the amounts received by him and the amount unpaid. He paid to the Clerk of the First Fruits the sums collected. The Clerk of the First

Fruits instructed the sheriffs to levy the sums in arrear together with a penalty of treble the tax.

The Clerk of the First Fruits accounted to the Commissioners of Accounts for his collection of First Fruits and Twentieth Parts. The assessment certificates (constats) of the Chief Remembrancer were duplicated to the Commissioners of Accounts and were a check on the Clerk's accounts. The bishop's certificates of the death of an incumbent and the appointment of a successor were also made available to the Board of Accounts to provide an additional check. For the Twentieth Parts the books of the Auditor-General were the basis of the charge. The Clerk of the First Fruits had to produce Exchequer Acquittances to balance his accounts. By Letters Patent dated 7th February 1712, Queen Anne directed that the receipts from First Fruits and Twentieth Parts should be paid to the use of the protestant church in Ireland for building and repairing churches and for maintaining the poorer clergy. By the Irish act, 2 Geo. I c. 15, this grant was given statutory sanction. The Crown, therefore, received no revenue from these fees.

The Custodiam Rents arose from the grant to persons, custodees, of lands and houses seized to the crown in the Court of Exchequer either as the result of a personal action for the recovery of a debt or on special warrant to dispose of property forfeited by rebellion. When the crown granted the property, a rent was reserved and the custodee gave security to the Exchequer for payment of the rent. The Barons of the Exchequer then issued a warrant called a *Custodiam*. The rents were recorded in the Office of the Pipe and were entrusted for collection to the sheriffs.

It will be seen that the sheriff's revenue duties were small. His method of accounting was none the less exceedingly complicated. A date was fixed by the Court of Exchequer for the closing of each sheriff's accounts and on the due date the sheriff attended in open court, taking oath that he would give a true and just account of his receipts. The Court of Exchequer granted the

sheriff four days for clearing his accounts. If he failed to do so within that time, a fine of £5 was imposed conditionally, and he was given four more days. If he cleared within the extended time, the fine was respited; otherwise it was made absolute, and an additional fine of £10 was imposed. The fines would be repeated each term, and in some cases they eventually amounted to £1,200 and more. These fines were given to the succeeding sheriffs to collect, and processes or writs were issued from the Court of Exchequer, first by the Summonister against the goods of the sheriff; then, if that failed, by the Comptroller of the Pipe against his body, goods and lands; and finally " if there be a return that he has none of these, nor himself found " the Second Remembrancer would issue a process against body, goods, lands, heirs, executors and administrators.[13] The sheriff then delivered his charges to the Clerk of the Estreats and Summonister who examined them with his own books and gave the sheriff a " constat " or certificate of agreement with his figures. For this he charged a fee of thirty shillings. The sheriff had to obtain a like certificate from the Clerk of the First Fruits and Twentieth Parts (fee nine shillings) and from the Chief Remembrancer (fee fourteen shillings and two pence) and Second Remembrancer (for arrears from his previous accounting), for three pounds, one penny; and he lodged these four *constats* with the Auditor-General from whom he received a *transcript* made from the *constats* (fee one pound six shillings and eight pence). He then produced his accounts to the Transcriptor and Foreign Apposer from whom he got a *Transcript* of the amount with which he was charged by the records of the Clerk

[13] See Report from the Committee appointed to consider the proper methods for the more easy passing Sheriff's Accounts, 6 Nov., 1723, in *Commons Journals*. This Committee found that the Sheriff's fines were not accounted for to the public use, but paid into the Poor Box, " which was originally intended for the use of the Poor, but appears now to be equally divided among the Barons, except such part thereof as they think proper to distribute among the Poor." The Committee concluded : " This is the state of the several facts as they appeared to your Committee, which, as they seem pretty extraordinary in their Nature, and to be of great consequence to the Publick, your Committee for that Reason declined coming to any Resolutions upon them, but humbly submit the same to the consideration of the House."

of Estreats (fee one pound seventeen shillings and ten pence). He was then " apposed " in court by the Foreign Apposer who placed upon him the responsibility of answering before the Barons to each individual charge against him. If the amount had been collected the sheriff said " Tot " and the sum was entered in the total charge for which Exchequer Acquittances or cash would be produced by the sheriff. If the amount had not been collected, the sheriff said " No Goods ", for that was the only excuse for non-collection. The technical title of this hearing was the " apposal " of the sheriff. The two transcripts were then signed by the Barons of the Exchequer—the official fee being half-a-crown to each of the Barons' clerks—and a parchment record was made of the live charges which the sheriff would account for to the Inferior Exchequer or Treasury. The sheriff (all the time paying these fees for his various releases) had then to lodge the document with the Clerk of the Pipe who gave him, in return, a certificate of the amount due, i.e. the balance on his accounts, called the " debet ". The sheriff then went to the Vice-Treasurer's office with the debet and his money to pay the amounts due. For this he got an Exchequer Acquittance which he brought back to the Clerk of the Pipe, and if he had no arrears in his accounts, his work was at an end and he got his " quietus "; but if he had arrears his quietus was held until, in the next accounting, it was shown that the arrears had been duly collected. The fees which the sheriff had to pay in the Pipe Office amounted to five pounds six shillings. In addition, he paid, at each passing of his accounts, thirteen shillings to the Usher, five shillings to the Pursuivant, half-a-crown to the Crier and one pound to the attornies in the Chief Remembrancer's Office.[14]

[14] See list of fees in *C. J.*, App. to Vol. 3 (Grierson), p. cclxxv. The House of Commons protested against these extraordinary fees and passed Heads of a Bill for abating them, but they were not accepted by the government (*C. J.*, 26th of June, 1666). See also Report of Committee on the Fees of the Court of Exchequer on passing Sheriffs' Accounts, 30th May, 1662. The gross amount then was £22 12s. 6d., but the House on 25th of January, 1665, issued a new Table of Fees, the reduced aggregate being £16 6s. 9d. The *Commons Journals* at March, 1640, give a list of the fees paid by Sheriffs on passing their accounts at the Exchequer.

When a sheriff answered " No Goods " to charges, the amounts were returned to the Clerk of the Pipe who issued to the sheriff elected for the next year a summons against the body, goods and lands of the debtor. When the sheriff was " apposed " on his accounts, if he had collected on such a summons, he said " ONI," an abbreviation for " oneratur nisi "; and not " Tot " as in the case of a current collection; but if he had not collected the amount, he said " Neither Body Goods nor Lands ". These sums which could not be collected on the second summons were returned to the Second Remembrancer, who issued to the sheriff of the next year a summons called the Prerogative Writ. If the amount could not be collected on this summons, the sheriff, on his apposal, said " Neither Body, Lands or Goods, Heir or Executor of the party can be found whereon to levy it." The arrear was kept alive in the following year and a commission was issued from the Exchequer to local men of standing requiring them to answer on oath whether they considered the arrear could be collected. If all failed, the amount was treated as a " desperate debt " and taken out of the annual rolls.

The Inferior Exchequer corresponded to the modern Irish Finance Department plus the Bank of Ireland; and the Vice-Treasurer was the responsible head, the Lord High Treasurer being a figurehead from the Superior Exchequer. The Teller was his chief official, and until 1783 this office was the most important and responsible in the Inferior Exchequer. From 1783 the public accounts were kept in the Bank of Ireland which had been established in 1782 (21 and 22 Geo. III, c. 16).

The Vice-Treasurer's authority for the payment of sums from his accounts was, for Civil List expenses, a warrant from the Auditor-General. The Auditor-General was bound by the list of expenses authorised by the King, by Royal Sign Manual Warrant, at the beginning of his reign. For charges which arose subsequently and were not therefore provided for in the authorised List, the Auditor's authority was a King's Letter, which was a written instruction signed by the

Lord Lieutenant. This was communicated to the Lords of the Treasury in England for approval and transmitted by them to Dublin for discharge by the Vice-Treasurer. The charges of the Military List were paid on warrants prepared by the Commissary General of the Musters, and signed by (or for) the Lord Lieutenant and countersigned by the Commissary General, before being presented at the office of the Vice-Treasurer.

The Vice-Treasurer was required to enter with the Clerk of the Pells all "debentures" and warrants on the Civil and Military Lists before paying them; and for all moneys received, he was obliged to issue a receipt, called an "Exchequer Acquittance," which had to be signed by him and entered with the Clerk of the Pells and the Chamberlains.

This system ensured that, if accounts were accurately kept, the Clerk of the Pells could, from his book-keeping records, state at any time the amount of the receipts into the treasury and the amount of the sums paid out of the exchequer and the balance in the hands of the Vice-Treasurer. Both the Vice-Treasurer and the Clerk of the Pells were obliged to render a transcript of their accounts to the Auditor-General quarterly who was thus able to compare the entries and call upon the Vice-Treasurer to account for any discrepancies. When the Auditor-General had examined the accounts and satisfied himself as to their completeness and accuracy, he made out two copies and brought them with the vouchers to the Commissioners for the Treasury Accounts each quarter who examined and compared them and signed them. The Commissioners signed the two copies. The Auditor-General retained one signed copy, and the Vice-Treasurer the other copy as evidence of the discharge of his duties.

The taxes which were fully appropriated by parliament were paid into the Exchequer in the ordinary way; but separate accounts of them were kept and the amounts were paid out on special warrants, according to the directions of the statute governing the charges, on the demand of the proper beneficiaries.

The Exchequer had, in the eighteenth century, become an expensive sham, while side by side with it had grown a subordinate revenue body of great practical importance, administered on a comparatively modern business basis. It has been stated that all revenue, other than the casual revenue, was collected by the Customs and Excise officers under the direction and control of the Commissioners of His Majesty's Revenue, appointed in the reign of Charles II by the act 14 and 15 Car. II, c. 8, when the duties of Customs and Import and Inland Excise were imposed. According to this act, separate Boards of Commissioners were to be created for Customs and for Excise; but, in fact, one panel, composed of seven commissioners, was appointed, and while all of them held commissions to act in regard to customs duties, only five of them were commissioners of excise, as the statute limited the number to five. The customs commissioners held office during pleasure; the commissioners of excise, during good behaviour. Until 1771 the Revenue Board consisted of seven commissioners at £1,000 per annum each. As part of the general policy of corruption, the Revenue Board was divided in 1771 into a Board of Excise and a Board of Customs. Five Commissioners of Excise and seven Commissioners of Customs were appointed. Prior to the change the House of Commons had protested, but the Lord Lieutenant replied: "I think it my Duty to inform his Majesty of the Sense of the House of Commons, expressed in this Resolution. And I think it incumbent upon me, on this occasion, to acquaint you that I have received his Majesty's Letters for appointing certain Persons therein named, to the Number of five, to be Commissioners of Excise, and certain other Persons, to the Number of seven, to be Commissioners of Customs, pursuant to the several Acts of Parliament in this Kingdom".[15] The change was regarded by the House of Commons as a too glaring and obvious method of purchasing votes, and in February, 1772, a resolution was passed by 119 to 107 votes "that the House will

[15] *C. J.*, 21 November, 1771.

refuse their Consent to any Alteration in the Revenue Laws of this Kingdom which shall tend to give effect to the Measure of dividing the Board of Excise from that of Customs, and of multiplying the Commissioners of the Revenue ". Again in the same month, a resolution was passed by a majority of 1 vote (107 to 106) cast by the Speaker : " That whoever advised the carrying into Execution the Increase of the Commissioners of the Revenue beyond seven, after the Resolution which hath been now read, which Resolution was subsequent to the Date of his Majesty's Letters for appointing the said Commissioners agreeable to the several Acts of Parliament empowering him so to do, but prior to the carrying into Execution, by Letters Patent under the Great Seal, his Majesty's intentions expressed in his Majesty's Letters, advised a Measure contrary to the Sense of this House conveyed therein ". When the session was approaching an end, an amendment to the loyal address was proposed, but negatived, congratulating the executive on the division of the Revenue Board contrary to the sense of the House of Commons " which we should have considered and represented as a high Contempt of Parliament, but from the Distribution of the multiplied Seats at the Two Boards now instituted, among the Members of this House, we entertain a very different Sense of that Measure, and conceive that it was carried into Execution, not from Contempt, but the highest Veneration of Parliament; the Indignation of which you dreaded, and therefore thus averted ".[16]

The division of the Revenue Boards was made primarily to obtain for the government more patronage. The post was worth £1,000 a year, and some of the more important parliamentarians whose votes were priced beyond this figure held in addition other sinecures. The member for Donegal (Richard Gore) was appointed a Commissioner by Lord Townshend, but was dismissed because he did not consistently support the government in the House of Commons. The salary was not, of

[16] *C. J.*, 27 May, 1772.

course, the only advantage to be gained from a seat at the Revenue Board.

In 1773 the two Boards were united again in one Revenue Board. Compensation for loss of office was granted to five of the twelve Commissioners, and to four Surveyors-General. In 1790 the Board was increased by two Commissioners, and again the House of Commons protested.[17]

The official correspondence between the Lords Justices and the Revenue Commissioners paints a picture of work in the Revenue Board-room too quaint to be overlooked. Writing 17th October, 1789, they stated : " The Lord Lieutenant conceives that a principal part of the delay which has at times occurred in the business of the Revenue Board has hitherto arisen from the circumstance of the seven Commissioners and their Secretaries sitting at one table, . . . and . . . his Excellency, in order to remedy the above inconvenience, desires that in future the nine Commissioners, with their two Secretaries, may sit in one room; but that they shall divide themselves and sit at two different tables."[18] Between 1789 and 1801 the two-table system was adopted. The result may be surmised from a letter from the Lord Lieutenant to the Revenue Commissioners on 20th October, 1801, " His Excellency conceives that two Boards sitting in the same room, although at different tables, must necessarily interfere with and interrupt each other; and that it is impossible for two Secretaries to read at the same time to two Boards sitting in the same room, without distracting the attention of both Boards; and therefore he is of opinion, that it would add much to the convenience of the Commissioners, and to the dispatch of business, if the Commissioners for superintending the different branches of Revenue sat in different rooms ".[19]

In 1793 the main branches of the Irish revenue were

[17] Chisholm errs in stating that there was but one body of " Commissioners of the Revenues of Customs and Excise " from the Revolution, 1688, to 1806. (Vol. I, p. 227.)

[18] *P.P.* No. 6 of 1806. App. No. 59, pp. 187-8.

[19] Ibid., pp. 188-9.

under the management of one Revenue Board composed of nine members. Of these, three were appointed to act in relation to both Customs and Excise; two acted solely in relation to Excise; and four solely in relation to Customs. The subordinate officers of Customs, who were appointed by the Commissioners subject to the approval of the Lord Lieutenant, located at each port in Ireland, included a Customer, a Comptroller, a Collector, a Searcher, an Examinator, a Surveyor of the Port, a Tide Surveyor, Tide Waiters and Land Waiters (to attend at the Tide Surveyor's Office, to go on board ship with him and to search ships), a storekeeper, a comptroller of stores (to examine all goods brought into the stores before they could be released) and a jerquer, whose duty it was to compare bills, discharges, invoices, etc., for each ship before the cargo was cleared and to enter particulars in his Jerquing Note. There was for each of the four provinces a Surveyor-General, who inspected the work of the officers of customs throughout his province. The duties of accounting were discharged by the Accountant-General of the Revenue.

The Revenue Commissioners were responsible for the collection of the Customs duties which were charged on both imports and exports; and of the Excise duties.

For the collection of the old Tunnage and Poundage the organisation consisted of three officers at each port, the Customer, the Controller, and the Searcher Packer and Gauger. Of these the most important was the Customer, who gave security to the Barons of the Exchequer for due execution of his office. His duty was to tax all goods imported and exported, keeping a record of all such goods, and issuing warrants for the loading and unloading of trade vessels. The Controller was appointed as a check on the Customer; and was obliged to keep a separate record of goods imported and exported and to countersign all warrants signed by the Customer. The duties of the Searcher Packer and Gauger were, as his names imply, to search for concealed packages, to check the loading and unloading, to

examine the contents of packages and see that the Warrants of the Customer contained an entry of every parcel of goods imported or exported. All three officials signed a yearly return of the gross quantities and values of imports and exports at their port and sent it to the Court of Exchequer. They were supervised generally by an officer called the Surveyor-General of the Customs who checked their books every quarter. He was also responsible for the collection at the port of Dublin, where his office was located. A Board of seven Commissioners of Revenue controlled this comparatively simple organisation.

It was not essential that all three port officials should act; and in some ports there were often long vacancies. Thus in 1676 there were twelve Customers, one at each port, ten Searchers and only six Controllers. At the busy ports of Dublin, Waterford and Ross, Youghal and Dungarvan, Limerick, Drogheda, Dundalk and Carlingford, the organisation was complete; in the other ports two officers performed the duties.

When in 1662 the Irish parliament granted the new Hereditary Revenue consisting of Inland Excise, Import Excise, New Poundage, Hearth Tax, Ale Licences, and Wine and Spirits Licences, the organisation became more extensive and complicated; and it was at this period also that the collection of the Crown Rents was transferred from the sheriffs to the revenue officers. Then the panel of seven Revenue Commissioners was appointed by statute, all of them acting as a Board of Customs and five of them as a Board of Excise. At the ports, the office of Customer remained. A new officer called the Surveyor was appointed, who boarded the vessels at the ports and supervised the charge of duty. When goods arrived which did not appear in the official Book of Rates, the Surveyor made a rate in his discretion. Under the direction of the Surveyor, there were Tide-waiters who recorded the cargo of the vessel, parcel by parcel, without breaking bulk; and remained on board to see that the cargo was delivered in its entirety to the Land-waiters. The Land-waiters opened all par-

cels and recorded the goods contained in each parcel and delivered this record to the Surveyor. The Customer, appointed by the crown by letters patent, was not so readily controllable by the Revenue Board as one of their own officials; and the Board for this reason appointed an official called the Collector whose duties were precisely those of the Patentee Customer; and the trading community was thus burdened with an additional official to fee or bribe. In the port of Dublin, where supervision from the head office was easy, the Patentee Customer was appointed by the Board as their collector.

For the collection of the inland duties (the Inland Excise on Beer, Ale and Spirits; the Licence duties paid by retailers of beer, ale and strong waters), the country was divided into districts, and a collector and a surveyor appointed for each district. The districts were divided into walks, and a gauger appointed for each walk. Twice a week the gauger went through his " walk " and examined the accounts of the brewers and distillers and recorded the number of gallons of liquor made. Once a month the district surveyor covered every " walk " in the district and recorded the gallonage of beer and spirits. The surveyor compared his entries with those made in the books of each of his gaugers; and at the end of each month a return was prepared for each walk, signed both by the surveyor and the gauger and transmitted to the collector. The collector charged the duty and collected it. Duplicates of the monthly returns of the surveyor and gaugers were sent each month, signed by the collector, surveyor and gaugers, to the Commissioners of the Revenue. They were then checked by a head office official called the Examinator, and a charge against the collector was sent to the Accountant-General of the Revenue. The Accountant-General's accounts were audited in the Exchequer by the Auditor-General.

Licences for the sale of strong drink were granted by the collector of the district. The gaugers and surveyors checked the retailers and their licences and entered particulars in their records which were certified monthly, as already stated, to the Board.

The Revenue Commissioners were also responsible for the collection of the Hearth Tax, which was first imposed in Ireland in the reign of Charles II by 14 and 15 Car. II, ch. 17, and 17 and 18 Car. II, ch. 18. The Constable of each parish was responsible by these statutes for giving to the Revenue Commissioners, upon oath, a return of the number of fire-hearths in the parish. From this return the Commissioners made out a charge against the Collector of the Hearth Money. These collectors were appointed for each walk and were under the supervision, like the gaugers, of the district collectors. They paid to the district collector the tax they received, and once a year sent an account direct to the Accountant-General of the Revenue. This account was the charge by which the district collector's hearth money receipts were checked. To encourage discoveries of hearths, substantial rewards were paid to the hearth-money collectors for adding to the parish Constable's list.

The Hearth-tax was a difficult tax to collect. The people who paid it handled little money, living on the land; and a money tax of the kind was such a burden on them that every device was resorted to before payment had to be made. It was a direct tax which would cause great difficulty to collect nowadays. Added to the difficulty of collection was the lack of incentive to collect. The revenue-collecting officials were paid small salaries and always remunerated themselves by fees. It was easy to take fees from merchants, because the collector could delay the clearing of their goods and make it worth their while to pay for a quick clearance. The hearth-money collectors had no such easy way of adding to their official incomes. These two causes militated against the success of the tax from a revenue point of view; and it became a general practice to farm the tax by counties to the highest bidders. A farmer, having contracted to pay a rent and given adequate security, had every incentive to collect the tax to the last penny.

The farmer paid his rent to the district collector, and made an annual return to the Revenue Commissioners of all the fire-hearths in his county. By this means the machinery of collection and the records of assessment were not disturbed by the farm, as both had been by the general lease of the Irish revenue in Charles II's reign.

The Revenue Commissioners were responsible for the collection of the King's rents in Ireland. The Exchequer Office issued the rent roll for each district to each collector once a year; and he collected the rents and accounted to the commissioners, while he paid the rents into the Treasury at frequent periods as they were collected.

The local collectors furnished returns each week and each month to the Commissioners of Customs and Excise, showing their weekly and monthly receipts and payments. At the end of each quarter, they returned, upon oath, a general account of the quarter's receipts and payments. These quarterly accounts were compared and examined by the Accountant-General of the Revenue. Once a year, the whole yearly account to the 31st December was submitted by each collector to the Accountant-General (assisted by the Clerk of the Quit Rents).

The collector's charge was made up of :—

(*a*) quit-rents, taken from the rent-roll in the Auditor-General's Office in the Court of Exchequer;
(*b*) customs, from the quarterly returns made to the Commissioners of the Revenue signed by the customer, comptroller and collector;
(*c*) excise and licences, from monthly returns sent to the Revenue Commissioners signed by the collector, surveyor and gauger;
(*d*) seizures,[20] from the quarterly accounts of the Register of the Seizures, made up and compared by the Revenue Commissioners;
(*e*) Hearth-Money, from the accounts of the collectors made up with the Accountant-General.

[20] By "seizures" is meant the revenue derived from the disposal of merchandise forfeited for offences against the Customs and Excise Acts. The goods were sold under the direction of the Commissioners of the Revenue.

On the other side of the account, the Collector produced :—

(i) Exchequer Acquittances for sums paid by him into the Treasury, and
(ii) A schedule of arrears, which went in charge for collection in the following year.

These two amounts plus salaries and expenses paid out of the revenue before it was paid into the Exchequer (premiums, bounties, drawbacks, expenses of law-suits) were equivalent to the total charge.

After examination of the vouchers, the account was passed by the Accountant-General of the Revenue and transmitted to the Auditor-General of the Exchequer, together with all the original vouchers. It was rechecked by the Auditor, abstracted under general heads, and the collector was summoned to Dublin to swear to the account in the presence of the Barons of the Court of Exchequer. The account was then filed as a record in the Auditor-General's Office.

The salaries of the revenue officials were deducted from the produce of the revenue and only the net amount was paid into the treasury. The cost of the management of the revenue cannot, therefore, be ascertained from the public accounts of income and expenditure. The total charge of salaries was about £150,000 per annum, made up of Board, £7,000; Secretariat, £10,000; Customs, £50,000; Excise, £40,000; Hearth Money Collectors, £5,000; Fees to officers on payment of bounties, £7,000; Pensions and *ex-gratia* allowances, £22,000. In addition, the expenses charged under the heading "incidents" in the accounts supplied to the Committee of Public Accounts covered a variety of charges representing upkeep of revenue cruisers, extra salaries, rents of offices and warehouses. The total cost of the revenue establishment was about £250,000.[21]

Taking the year 1788/89 (for which the accounts are detailed by the Committee of Public Accounts), the total

[21] Figures of salaries and incidents are given in the various reports of the Committees of Public Accounts in Appendices to the *Commons Journals*.

revenue, exclusive of that collected by the sheriffs, amounted to £1,291,102 (Hereditary Revenue, £612,262; Additional Duties, £573,597; Stamp Duties , £58,607; Post Office, £46,636). Drawbacks amounted to £45,267 (Hereditary Revenue, £3,790; Additional Duties, £41,477); giving a net produce of £1,245,835 (Irish Currency). The Appropriated Duties brought the total to a round figure of £1,500,000. The percentage charges of collection[22] were :—

(*a*) Of Hereditary Revenue and Additional Duties ... ... 17 per cent.
(*b*) Of Stamps ... ... 18 per cent.
(*c*) Of Hearth Money ... ... 21 per cent.

The cost of collecting the revenue (including management and accounting) was between 15 and 20 per cent. of the produce of the revenue during the nineteenth century, increasing in the later years. The cost was recognised to be excessive; but owing to the practice of appointing officers who had no intention, and seem not to have been intended by the executive, to perform their duties in person, the establishment was inflated, and, as should be expected, the inflation was at the top where the emoluments were high. The Revenue Commissioners, for example, treated their posts as sinecures.[23] At various dates the House of Commons appointed Select Committees to inquire into the expense of collecting the revenue.[24] The Committees of Public Accounts made special reports on the subject.[25] The salaries in the Revenue Department represented the charge on the revenue, but not the cost to the taxpayer. Offices in the Revenue Department were purchased at a valuation which indicated the existence of much higher than the official emoluments. In 1766 (January 31st) the House

[22] The Committees of Public Accounts, whenever they state the cost of collection as a percentage of the gross revenue, include in the gross revenue the drawbacks, which were a considerable sum.

[23] A motion was made on the 8th March, 1766 : " that the Office of a Commissioner of his Majesty's Revenue would be better executed by a Person Resident in this Kingdom, than by an Absentee " ; but it was negatived without a division.

[24] See Reports of April, 1784 ; 21 May, 1795 ; 19 March, 1796.

[25] See Report 24 November, 1779, and that of 7 November, 1783.

of Commons gave leave for the introduction of Heads of a Bill " to prevent the Buying and Selling of Offices which concern the Administration of Justice, or the Collection of his Majesty's Revenue ", but in the Committee stage a motion was carried by 57 to 53 votes to postpone indefinitely further discussion of the heads. The purchase of offices was not confined to the Revenue Department, but was the general practice throughout the civil service,[26] and was not surreptitious.

The fees charged by the Revenue Officers were in many cases arbitrary and illegal. The House of Commons had, as has been stated, given serious consideration to this abuse and had ordered that a list of the statutory fees should be displayed in customs offices for the information of the public. In the " Report from the Committee appointed to enquire into the Expenses of the Collection of the Revenue for the last twenty years, into the Cause of the Increase of such Expenses, and to report the same," dated May 21st, 1795, the witnesses (importers and exporters) who gave evidence before the committee are reported to have said that a list of fees was not displayed in any office. As regards the fees exacted by the officers one witness said[27] : " Some of these Fees are not authorised by Law, but he is of Opinion that a Refusal to pay them would be attended with considerable Inconvenience and Delay ".

The Customs officials were poorly paid, their emoluments in many cases being merely nominal. It was understood that they accepted fees and there was a fixed scale, though this was not respected by the officers. In the Public Accounts Committee's report for 1771, the following are given as the official emoluments of the Customs officers[28] :—

[26] Cf. *C. J.*, 17 March, 1784, Petition of Clerks of Peace for the County of the City of Dublin : " the Petitioners were induced some Years since to purchase that Employment at a very considerable Expence," but since then the fees had decreased owing to changes made in the court arrangements.

[27] *Commons Journals*, Appendix, Vol. XVI, p. clxxxix. The report of this Committee gives very full statistics of the cost of collection of the revenue.

[28] See also *C. J.*, Vol. XI, App., p. c. Report of 7th Nov., 1783; and Vol. XIV, App., p. lxi, etc.

	£	s.	d.
Customer, Comptroller and Searcher, Dublin	20	0	0
Customer and Comptroller, Wexford ...	15	0	0
Customer, Comptroller and Searcher, Youghal and Dungarvan	75	0	0
Comptroller, Cork	500	0	0
Customer, Comptroller and Searcher, Kinsale	120	0	0
Customer and Comptroller, Killybegs ...	200	0	0
Customer, Comptroller and Searcher, Limerick	31	13	4
Customer, Comptroller and Searcher, Waterford and Ross	36	13	4
Customer and Searcher, Cork	18	6	8
Customer and Searcher, Galway	618	6	8
Customer, Comptroller and Searcher, Dundalk and Carlingford	420	0	0
Customer and Searcher, Carrickfergus ...	14	3	4
Customer and Searcher, Strangford ...	14	3	4
Customer and Comptroller, Dingle ...	405	0	0
Accountant-General of the Customs ...	700	0	0

In 1774 the establishment of Customs and Excise (outdoor) numbered 2,014; in 1784, 2,101; and in 1794, 2,431. (C. J., Vol. 14, App. clxiii, An Account of the Number of Revenue Officers on the Establishment for the several Ports and Districts of the Kingdom.) From about 1780 the revenue establishment increased considerably, and between 1781 and 1791 the aggregate of new and additional salaries was £6,098 per annum in the Customs and £9,635 in the Excise. (C. J., Vol. 14, App. ccviii.)

The Customs officials were in many cases non-resident and often leased their offices to others. In the report of the Committee of Public Accounts, delivered on 7th November, 1783, the following officers paid the absentee tax of 4/- in the £: Customer, Dublin port; Collector, Dublin county; Secretary, Excise Department; Gauger, Wicklow district; Customer of Belfast; Comptroller at

Limerick; Comptroller at Kinsale; Comptroller at Drogheda; two Searchers of Drogheda; Searcher, Limerick; Searcher, Cork.

After an inquiry made in 1775 by the House of Commons into the fees charged in the Exchequer and in the Revenue Department, the ancient fees were in many cases abolished and salaries paid on the understanding that any fees charged by law would be accounted for to the Exchequer. As an instance of the value of these fees, the Searcher at Strangford, whose ancient fee amounted to £6 13s. 4d., got a salary of £1,000 from 19th May, 1775. The Customer of Youghal and Dungarvan, whose fee was £13 6s. 8d., received £200 a year from 4th August, 1774, and an additional £200 a year from 25th March, 1776.[29]

As the actual Customs and Excise revenue which reached the Exchequer amounted to over half a million sterling in 1750 and to a million pounds in 1790, and in 1800 to nearly two and a half millions sterling, it can be imagined how heavy a charge on trade these duties, with the added fees to officers, were.

Collectors retained moneys beyond the dates fixed for settlement of their accounts. On 25/3/1773 the aggregate of balances due by Revenue Collectors amounted to £82,484, while balances due by dismissed Collectors at the same date amounted to the large sum of £19,332. Although each Collector was obliged to give security amounting to from £2,000 (Youghal, Wicklow, Dundalk, Galway) to £10,000 (Dublin Excise) and £12,000 (Cork and Dublin Customs), varying with the importance of the port or district, great laxity was shown in ensuring that the sureties who backed the security were capable of meeting their bond. In a list of excise officers, dead or dismissed, who owed balances to the Exchequer at 1785, officially returned to the House of Commons and printed in the Report of the Committee of Public Accounts,[30] it is stated in two cases: "Sureties not known, Bond having been either destroyed by Vermin or

[29] *C. J.*, Vol. IX. App., p. dlxvi.

[30] *C. J.*, XII. App. p. ccxxxi.

lost ". One officer in the list owed as much as £2,516 and another £1,422. At the end of the financial year 1777/1778 the amount of balances due to the Revenue by dead and dismissed collectors reached the huge total of £72,061; and at 25th March, 1796, the amount due was £88,019.[31]

The highly-feed posts of collector, customer and comptroller and searcher were filled by government nominees, many of whom were members of parliament. The comptroller of Dingle in 1775 was also a Judge of the Admiralty and a Commissioner of Appeals, in receipt of three distinct salaries. He had in addition a seat on the Linen Board, which carried an amount of patronage.[32] The searcher at the port of Cork, whose salary was £1,000, was a member of parliament. The Dublin collector of excise, with a salary of £700 a year, was a member of parliament, " obliged to support from his Employment of Collector of Dublin Excise worth £700, without it not to be trusted ";[33] while the collector at Cork " supports to save himself."

It was not surprising that under such a system the officials who came into contact with the public and collected the duty, were not reliable and not always honest. They were not above bribery. They received free labour and free provisions. They manufactured seizures in order, for a consideration, to relieve the unfortunate citizen of the dread of the law. In one such case brought before the courts, it is stated that the customs officer swore that he knew by the feel of certain tobacco that it had been smuggled. A conviction for perjury did not bar an officer from promotion. The Committee which dealt with the Irish contribution and joint expenditure under the Union arrangements referred to " the very low allowances of the inferior officers of Excise,

[31] *C. J.* Appendix, pp. cii and ciii. Year 1797, Vol. XVII.

[32] See *The Irish Parliament*, 1775. The holder was Robert Fitzgerald, whose " chief merit is that he attends when he is desired—He now wants additional Emolument, either by additional Salary to the Office he now holds or by new Creation, whether by Place or Pension it mattereth not." pp. 19-20.

[33] Ibid, p. 30.

who are supposed in many instances to have been driven by their necessities to corrupt practices ".[34]

Certain fees could legally be taken from merchants by the customer, surveyor, comptroller and searcher for every entry, clearance, customs receipt, and for gauging. These fees were, with two exceptions, in money; the searcher was entitled to take 100 oysters from every boat landing oysters; and 100 apples from every " boat or barque " landing apples. The fees actually taken by the officers were much in excess of those to which they were entitled. In many cases special arrangements were made with individual merchants; and, in fact, the fee system was nothing more than a process of compulsory tipping and bribery.[35]

The Commissioners were ineffective officers, and their personally appointed deputies were unable and too lethargic to introduce discipline and order into a body of officials who themselves performed their duties vicariously. In 1787 this quaint, disgraceful note appears in an official report : " A Proposal having been made to the Board by Mr. Carter, a Gentleman of Character and Influence in the County of Leitrim, to suppress the prevalent Practice of illegal malting and distilling in Parts of the Counties of Leitrim and Sligo, upon being properly authorized so to do, and on being paid the salaries heremention ed for himself, Deputy, and Assistants—the Board agreed thereto on the 14th June, 1787, by Way of Experiment for one Year, with the Approbation of Govt."[36] So rooted was the notion that a gentleman must perform his office by deputy that even this ardent reformer was paid, in addition to his own salary of £300, a sum of £80 for a deputy, and £144 for twelve hired men at £12 each.

Illegal and arbitrary fees were not confined to the Revenue-collecting department. In the Court of Exchequer, although fees recognised by ancient custom

[34] *P.P.* 262 of 1811, p. 12. See also *Documents illustrative of the Oppressions and Cruelties of Irish Revenue Officers.* London, 1818.

[35] See First Report of Commissioners on Fees, Gratuities, etc. *P.P.* 6 of 1806.

[36] Account of Incidents, 1787, *Commons Journals*, Vol. XII, App. p. dxliii

were the main source of emolument of the officers, additional fees were taken, and Exchequer balances were used for private purposes. The Teller of the Exchequer, the most important and responsible officer of the Lower Exchequer, was allowed by official usage to make private use of balances in his hands. The inevitable result of this practice was that, at the end of his official career, the Teller was able to show only a correct paper balance, and the amounts in default were often considerable. When in 1779 it was found that Sir Henry Cavendish, Bart., who held the post of Teller of the Exchequer from 1766 to 1776, had died, leaving a balance due to the Exchequer amounting to £60,211, an attempt was made to sue the heirs to the estate.[37] The Teller received no salary from the state. He was paid £260 a year out of the official emoluments of the Vice-Treasurers. Nevertheless, when, in 1783, Exchequer receipts commenced to be lodged in the Bank of Ireland and the Teller's income from the use of these balances consequently ceased, the House of Commons took cognisance of this loss and granted the Teller an annual allowance of £1,750 as compensation. If the balances had, before 1783, exceeded £30,000, the interest from the excess over that amount went to the public use; and the allowance of £1,700 was based on the annual interest on £30,000. Thus the House of Commons recognised the validity of the obnoxious practice by which a public official was permitted to make profit from unissued amounts of public moneys.

Despite the change made at 1783, the Commissioners on Fees, etc., appointed by the parliament of the United Kingdom found in 1813 that the Deputy-Teller held large sums of public money in his hands amounting to about £200,000 on average; and he paid the (sleeping) Teller an annual salary of £2,000 and paid the clerical and other expenses of the office. The Deputy-Teller explained, in his defence, that he had used the money to purchase considerable shares in the government loans,

[37] A Report by G. E. Howard, Solicitor to the Revenue Board, explaining the difficulties experienced by the Treasury and Law Officers is printed in App. p. lvi, Vol. X, *C. J.* See also the Act 15 and 16 Geo. III, c. 41.

and his action was " of some public utility, by preventing a fall in the price of stock, which must have occurred had so large a quantity been brought into the market, and consequently materially affected the price of the loan in the ensuing year."[38]

The Deputy for the Vice-Treasurer was paid £500 a year by the Vice-Treasurer; but he also had the use of Exchequer balances for his private purposes. One of the holders of the office, John Pratt, became a bankrupt in June, 1775, and was dismissed from office. The amount due by him to the Exchequer was £51,724. None of this was recovered until 1727; and between 1727 and 1753 various amounts were repaid, leaving £17,994 due by his estate.[39]

The complicated method of accounting and audit in the Court of Exchequer has already been explained. Until 1766, the audit of the Vice-Treasurer's accounts was regulated by an act of Henry VII (10 Henry VII. cap. 1) : " An Act authorising the Treasurer to make all officers as the Treasurer of England doth ". This act gave to the High-Treasurer and Vice-Treasurer in Ireland the same powers over the collectors of revenue, described as the " customers, comptrollers, farmers, and other officers accomptants ", as the Treasurer had in England; and required the Irish Treasurer to declare his accounts once a year before the Barons of the Exchequer in Ireland and before such members of the Irish Privy Council as should be appointed for that purpose under the Great Seal of Ireland by the Lord Lieutenant. The accounts were then to be certified into the Exchequer in England and finally passed by the Barons of the Exchequer there. The Commissioners for the Treasury Accounts appointed under this Act were *ex-officio* the Lord Chancellor and the Chancellor of Exchequer, the three chief judges, the secretary of state, the Auditor-General and the Muster-master General. From 1766 the accounts were settled quarterly.

This Board of Accounts examined not only the

[38] *P.P.*, 102 of 1814, App. v, p. 61.
[39] *C. J.*, Vol. VIII, App. p. cliv.

accounts of actual receipts into and issues from the Exchequer, but also the accounts of advances or imprests made to local paymasters. In 1766, by authority of a King's Letter, a new Board was appointed to examine the Imprest Accounts, and the Commissioners for Treasury Accounts were from that date obliged to pass only the accounts of receipts into and issues out of the Exchequer. In 1784, by the act 23 and 24 Geo. III, c. 26, the Commissioners of Imprest Accounts, or any three of them, were required to audit the accounts of the bodies which received parliamentary grants, viz.: the Trustees of the Linen Manufacture, the Dublin Society, the Foundling Hospital, the Hibernian and Marine Hospitals, St. Patrick's Hospital, the House of Industry, the Protestant Charter Schools, the Ballast Office and the Inland Navigation Boards and the various trustees for building piers, clearing harbours, widening streets and repairing churches. Before that date, as has been mentioned, the parliament appointed its own committees to report upon the administration by these bodies of the public funds allotted to them. These accounts, which some time numbered as many as thirty-seven, were annually examined by the Commissioners of Imprest Accounts, whose reports were laid before parliament and are printed in Appendices to the Journals. The Commissioners were empowered to summon and examine upon oath any person having any knowledge of the accounts under enquiry. Although not appointed until 1784 they were required to audit accounts back to 1777, and for earlier years if they had good reason to doubt their accuracy. Three copies of the accounts as finally audited were made by them, one of which was given to the body accountable, one laid before the House of Commons, and one kept for record in the Court of Exchequer. Their powers and duties were rounded off in an act of 1785 (25 Geo. III, c. 63). The Commissioners of Imprest Accounts continued to audit these accounts, including those of the National Debt Commissioners, of the Commissioners of Stamp Duties, and of the Board of Works, until 1812, when they were

abolished by the United Kingdom act 52 Geo. III, c. 52. Their last report, the thirty-ninth, is for the year 1812/13.

The Commissioners of Accounts were drawn from no better material than the higher officers of the Exchequer and the members of the Revenue Board. We have a delightful description of one of them, Gervas Parker Bushe, the member for Granard, in 1775:[40] "Once an ingenious Speaker against Government—now he seldom opens his Mouth, and when he does, the recollection of his former Patriotism choaks him"; and this is one of his colleagues, St. John Jeffereyes, "a fluctuating little gentleman held steady and in awe only by his appointments".[41] The four Commissioners of Imprest Accounts were members of parliament, and were paid £800 a year each.[42]

It will be agreed that the revenue administration in Ireland needed reformation. The Exchequer itself was, however, no more complex, nor any more wastefully expensive than its opposite number in Great Britain. It was not until 1793, eleven years after the victory which gave a great measure of freedom to the Irish parliament, that changes were made in the financial administration. Such changes are usually made with caution. Few politicians are able to keep a clear head in matters of public finance. When, however, the changes were made, inadequate as they appear to modern eyes, the Irish Exchequer became a model to which the British Commissioners of Public Accounts, in their Report on the Exchequer in 1831, could look with envy, when they found that "the complex arrangements which are still in existence at the English Exchequer are wholly dispensed with in Ireland".[43]

[40] *The Irish Parliament*, 1775, p. 9.
[41] Ibid, p. 28.
[42] *C. J.*, Vol. XIII, App. p. cxcviii, and cclxxiii.
[43] *P.P.*, No. 313 of 1831.

CHAPTER XI

The Changes Made in 1793 and 1795

Eight years after the achievement of 1782, Grattan found it necessary to attempt a motion which aimed at impeaching members of the government. "We charge them publicly, in the face of their country, with making corrupt agreements for the sale of peerages—for doing which, we say, that they are impeachable; we charge them with corrupt agreements for the disposal of the money arising from the sale, to purchase for the servants of the castle, seats in the assembly of the people; —for doing which we say they are impeachable. . . . . We pledge ourselves to convict them—we dare them to go into an enquiry—we do not affect to treat them as other than public malefactors—we speak to them in a stile of the most mortifying and humiliating defiance. We pronounce them to be public criminals. Will they dare to deny the charge?" The answer was a majority of 56 votes against the motion.

When will the people of Ireland be satisfied? a member of the Irish parliament asked, voicing an eternal query. Why, having been granted "independence" in 1782 was the minority still so militant in 1790? One must coldly examine the gain of 1782 in order to appreciate the amount of political irritant which still remained. Straightforward external control was surrendered then by the British legislature. The Irish parliament was made, one might say, supreme in the sphere of legislation. At the time of triumph, people looked forward with optimism to a period of good government, and what in Ireland has always been more important, to an absence of bad government. Yet, hear the language at 1790, of the ascendency for whose benefit and weal Ireland was then governed: "Those acquisitions which

the people thought would have brought good government, have brought bad, and why? Because it has been the object of English ministers ever since to countervail what was obtained at that period, and substitute a surreptitious and clandestine influence for that open power, which the English legislature was then obliged to relinquish".[1]

The trouble was that there was still no minister responsible to parliament. The government of Ireland was responsible to nobody. Even though all went well with it, it fell when the British government fell. In the seven years before 1786, there were seven successive lords lieutenant in Ireland, and in the same period eight chief secretaries.[2] The country suffered from what Grattan called "the misfortune of a double administration, a double importunity, a fluctuating government, and a fugacious responsibility."[3]

Gigantic efforts were made by the minority in parliament in the years following 1782 to remedy the universal corruption which was a principle of government in Ireland. Pension Bills, Place Bills, Responsibility Bills, motions for addresses to the sovereign; all were tried and inevitably failed. Sessions were held annually from 1783 and supplies were granted from year to year, and practically the entire attention of the House of Commons was occupied with these bills repeated from session to session. The pension list was attacked; and the list kept growing. To interfere with it, to establish a fixed Civil list as in Great Britain, would be to interfere with the prerogative of the King and prevent him from giving to merit its due reward; so argued the government supporters, themselves pensioners and placemen, coming forth, as they were happily described "in the rusty armour of old prerogative", setting up "the shadow of prerogative as a sentinel to public robbery."[4] From 1706 to 1736, £1,180,799 was paid from

[1] *Deb. Irish House of Commons*, Vol. X, p. 243.
[2] *Deb.*, Vol. VI.
[3] *Deb.*, Vol. VI, p. 114-5.
[4] Grattan. Speech. 13th March, 1786.

the Civil List for pensions; from 1736 to 1766 the amount was £2,328,608; and in 1785 the amount was £95,000. When the long list was read out in the House of Commons even the government's adherents were forced to laugh, it must have been uneasily, at the strange-sounding German names, Georgian nominees, which appeared on it. " It is written that the wages of sin is death " said a member; " but he who wades through the infamy of our pensions list will have reason to say that the wages of sin is Ireland ".

The executive in Ireland continued to take its orders from the British government of the day, and in order to carry its measures and to resist objectionable bills, bribery was used on a more extravagant scale than before 1782. Members of parliament were paid salaries as packers and searchers in the Revenue Department and were appointed to " ports where a ship never enters, nor a bale of goods never lands."[5] It was bad enough that the government should have deemed it necessary to resort to such questionable methods to gain its ends; it was not necessary, as one can see now; but, worse still, the government, after 1782, refused to meet even the most legitimate requests of the unpurchased part of the House of Commons, and made no concessions, and seemed to want the parliament to pass no legislation except that which granted a supply. This was what even then was called " a strong government in Ireland ". When pressed sufficiently hard the executive gave way. The result was that administration was despised; the supporters of government were suspect; and, in the eyes of members of parliament, the dignity of their House was tarnished.

A bill legalising a pension list of £80,000 per annum was introduced in 1789. The object was to fix a maximum limitation to the royal prerogative in the grant of pensions. On this occasion the government allowed the bill to pass the Commons, but it was defeated in the House of Lords.

In addition to the pension and place bills, and the

[5] *Parl. Deb.*, 12th March, 1787, p. 319.

responsibility bill, the minority promoted a bill to disable revenue officials from voting at elections. The argument in favour of this bill was that the revenue officials were a big crown influence at elections owing to the small number of people in Ireland who possessed a vote. The argument against the bill was stated by the Solicitor-General as follows:—" The example of England has been proposed to us to follow. Sir, England is a protestant Kingdom, full of voters; unfortunately for Ireland, she is not so. England, without any danger to the protestant interest, might, upon urgent necessity, and full proof of their delinquency, cut off a number of voters. But that, sir, can never be drawn into precedent here, where the protestant interest is weak, and the number of voters few; it can never justify us in disfranchising rendering them still fewer ".[6] It ought to be remembered that all revenue appointments were made by the Revenue Commissioners who were themselves members of parliament and strong supporters of government.

There were also bills for reforming the representation of the people in parliament. More than two-thirds of the members of the House of Commons were returned by private borough-owners. In the British House of Commons there were then 67 placemen out of 558 members and state pensioners were debarred from sitting. In the Irish House there were over a hundred placemen and pensioners. Many others were held in allegiance by promises of peerages, and reversions of state positions. It was eventually the action of the Lord Lieutenant in selling peerages and, with the money thus obtained buying adherents in the House of Commons, that incited the minority to bring forward motions to impeach. The minister was accused of posting himself at the door of the Lords with his open palm, admitting all who paid for seats.

There was one disablement from which the Irish parliament was still, after 1782, suffering. It could not bring responsibility home to the government. The

[6] *Parl. Deb.*, Vol. IX, p. 368.

remedy was there too : the old remedy which never fails parliaments, which has made the House of Commons supreme in the government of the state. It was useless to expect the government punch-show to move unless the wires were pulled in London; its voice was not an Irish voice. Honest supporters of the system were not wanting. Here is an apology for it, spoken in 1791. " In an empire like the British empire, there must be one executive power, one originating, presiding, directing, and pervading will, which can consider every part as forming together an united whole, connected for common interests. If there were two distinct executive powers, there would be no empire at all : the kingly union would be nominal, and nominal for a time only. The two countries would separate into independent states ".[7] In general, however, the Irish government relied only on the argument of the division list. Between 1786 and 1792 twenty bills and motions were brought before the House of Commons to remedy the corruption of the government, and in all cases they were rejected by solid majorities. The opposition did not number more than 90; and there were over 100 government servants in the House. Could the Commons use the fiscal weapon against the government? Obviously since the Government had purchased a majority, this would not be done. The only hope then lay in a European war. The victory of 1782 had been gained when Great Britain was in straits. The final victory came, as a result of the war with France, in 1793.

Between 1782 and 1793 parliament had no more control of finance than before 1782. The House of Commons voted supplies but had no voice in limiting expenditure. There was no appropriation act; the supplies were voted in a lump sum and the only appropriation was that already described in chapter 8. The Commons could examine the accounts, summon officers to the bar, protest against certain charges and address the crown. In fact, the Committee of Accounts now contained a majority of supporters of government and the proposals

[7] *Irish Parl. Deb.* (Mr. Cooke), 26th March, 1791, pp. 383-4.

of the minority were resisted and quashed. In any event the House would have negatived any motion criticising the executive. The result was that few members, except those specially interested in financial administration, troubled to put in an attendance at the Committee of Accounts and in general the work was perfunctorily done and the reports were simply statistical, bare of comment or criticism. One member who attended regularly was John Forbes, M.P. for Drogheda County and Town; and to his untiring efforts was due the eventual victory; for while orators like Grattan, Flood and Curran, spoke beautiful generalisations on finance, Forbes understood the importance of the *minute* financial control as distinct from the wide negative power, and he appreciated the manner in which it ought to be practicable to ensure that such control could be exercised. That was no small achievement when one considers that public financiers of the day had in England got no further than the notion of the check-check Court of Exchequer. It was of no avail to the Commons to know that before issues were made from the Exchequer the Teller had received a properly-drawn, signed and duly counter-signed, order. The order, in the first instance, was a King's Letter, counter-signed by three lords of the British Treasury, directed to the Lord Lieutenant. From this, a warrant was issued over the signature of the Lord Lieutenant, and countersigned by the Chief Secretary. This warrant was an authority for the Irish Exchequer to issue the amount stated in the King's Letter. In examining the accounts, the Commissioners of Treasury Accounts (the Lord High Chancellor, the Chancellor and Barons of the Exchequer) were bound to accept the Lord Lieutenant's warrant. In all cases where the amount authorised by Royal Sign Manual Warrant on the Civil or Military Establishments was exceeded, a King's letter was required. If the " exceeding ", as it was called, was incurred without this authority, as often happened in the Contingencies accounts, a King's Letter was subsequently received in the following form : " It having

been certified to the Treasury in England, that such exceedings in the above heads have been already expended, and the accounts having come over without any objection to them from the kingdom of Ireland, we are therefore graciously pleased to allow the same accordingly ". When charges were queried in the Committee of Accounts it was answered by the government side that " it was his Majesty's pleasure that such charges should be placed on the establishment." " If the Minister of finance " said John Forbes, " had given such an answer in the English House of Commons, he would have been called to the bar; it is an established maxim in the English constitution, that the king can do no wrong; but it is also an established principle, that the ministers who advise the king and execute his orders are responsible; if the servants of the crown in this country are permitted thus to evade all responsibility, and screen themselves under the name of majesty, the controul of this House over the expenditure of public money exists but in name; the committee of accounts is but a mockery, and the mace but a bauble ".[8]

Forbes deserves to be remembered as one of the active, far-seeing and unpurchasable members of the Irish House of Commons who were responsible for the rapid constitutional development during the last twenty years of the 18th century. The son of Henry Grattan paid him a merited tribute in the Memoirs of his father.[9] " In the midst of this political chaos, one man remained unmoved, unterrified, undaunted—John Forbes;—he was steadfast and inflexible from first to last;—he stood by the principle (*i.e. of freedom to trade*) throughout, and when the question came on, he delivered one of the best speeches on the occasion. This individual was incorruptible; he was one of the most amiable and estimable of men; mild and gentle in his nature and in his manners, but firm and honest of purpose. He was offered place and he refused it. He supported all the

[8] *Irish Parl. Deb.*, X. p. 385.

[9] *Memoirs of the Life and Times of Henry Grattan, by Henry Grattan, his son* (1839), Vol. II, pp. 34-35.

questions regarding Irish freedom with great ability. He proposed the Place Bill and the Pension Bill." " He served the people faithfully and his name should be prized by every lover of liberty." Forbes was a strong supporter of Catholic emancipation, and from a meeting at his house in Kildare Street, Dublin, the Catholic Convention of 1793 sprang. " The Catholics were frightened at the proposed measure and would hardly attempt it. Hutchinson was very bold; Forbes was decided; Keogh was timid ".[10] With Grattan, Forbes interviewed the Prince of Wales on the Catholic claims. He did not live in Ireland under the Union, and ended his days in New Providence.

It will be understood that the British government had a control of Irish expenditure because issues were made on the King's Letter countersigned by the British Treasury, and the Irish accounts were finally examined in the Court of Exchequer in England. The Irish parliament had less voice in Irish finance than the British government. It had less power than the British House of Commons to which the Irish ministers and the British officials were answerable. In order to bring some controlling power to the House of Commons, Forbes, in 1790, introduced a Responsibility Bill. This provided that a warrant for expenditure issuing from a King's Letter, must be countersigned not only by the Chief Secretary but by the Irish Chancellor of Exchequer and other state officers. The intention was to have responsible to parliament somebody whose office would keep him within arm's length of the Commons. The Lord Lieutenant and his chief secretary could depart from Ireland; and, as one member put it, they cared as little for bills of the Commons as for bulls issued by the Pope. The Responsibility Bill was defeated, the second reading being indefinitely postponed. Again in the next session a Responsibility Bill was introduced. By its terms the Treasury was to be put into commission, and five Treasury commissioners were to be made responsible for

[10] Ibid., p. 70.

all expenditure. The bill was defeated, after a lengthy debate, by 131 to 64.

The view taken by those who advocated responsibility to parliament for the expenditure of public funds was that the persons named as responsible should be members of parliament in order that they could defend their actions in the House of Commons and also be more easily criticised and cross-questioned. The Chancellor of Exchequer and other Privy Councillors who sat in the Commons were in the habit of declining to accept responsibility for the excessive expenditure; the ministry was impregnable because it was not an Irish ministry but was appointed by and responsible to the British ministry of the day. If the Commons could place responsibility upon some of the quasi-permanent heads of the Exchequer who were also politicals and members of parliament, they could influence these officials by fear of reprobation in the House; and economy would probably result. That seems to have been the intention. At the same time, the Pensions Bill, so often introduced and as often rejected, provided for the institution of a general revenue fund, a Consolidated Fund like that to which all British revenues were drawn, and a limited Civil List, beyond which expenditure could be incurred only with the approbation of the House of Commons.

In 1793 war broke out between Britain and France. In February of that year the House of Commons agreed to an increase of 3,000 in the Irish army and large supplies were granted. In June, 1793, the Chancellor of Exchequer announced in the House of Commons that the government intended to introduce, through him, " a bill that would regulate the issue from the treasury of all public money—would add to and confirm the authority of Parliament over their grants—would lessen the expenditure of the nation and the influence of the crown, and remove all cause of jealousies. . . . . He observed that the treasury of Ireland was and is under the control of the treasury of Great Britain; that he would remove, and place it under that of the Irish

House of Commons."[11] To be brief, the government now agreed to introduce measures, the periodical rejection of which, at its instigation, had cost the country a heavy expenditure and made the government infamous. An Irish Treasury board would be established, responsible only to the House of Commons. The whole of the Hereditary Revenue would be placed at the disposal of parliament, and the crown would be given, in lieu of that revenue, a fixed civil list from which pensions, limited in the aggregate, would be paid. All supplies could in future be appropriated solely to the specific purposes for which they should be voted. Finally, the acceptance of a government post would disable a member from sitting in parliament unless he should, after appointment, be re-elected. Further concessions relating to the navigation act, and trade, were outlined.[12] In due course the bills were introduced and passed into law; and the Lord Lieutenant in his speech at the close of the session said " You must be fully sensible of his Majesty's gracious condescension in committing to your judgment the application of the hereditary revenue; and I am ordered by his Majesty to signify his approbation of the provisions which have been made for the support of his civil Government, and the honour and dignity of the Crown ".

The Consolidated Fund Act (33 Geo. III c. 34) operated from the beginning of the financial year 1794/95 viz: 26th March, 1794. The fund was formed of all unappropriated duties, including crown rents and casual revenue; from it a sum of £145,000 per annum was directed to be applied by the treasury in payment of the expenses of the Civil List establishment exclusive of pensions; and until the pensions were reduced to £80,000, a further sum not exceeding £124,000 per annum was to be applied from the Consolidated Fund in payment of pensions. Thus the total of the Civil List was fixed at £269,000 and the pensions at a maximum of £124,000 to be reduced to £80,000. The House in Com-

[11] *Irish Parl. Deb.*, Vol. XIII, p. 431.

[12] *Commons Journals*, Vol. XV, p. 251. King's Message to Parliament.

mittee of Supply had fixed the total at £374,000; but the resolution was subsequently altered to bring the figure to £269,000. The act limited the secret service funds (sections 9 and 10), and also the amount of new pensions which could be granted in any one year, so long as the total of the list exceeded £80,000. A separate account of the several branches of the revenue composing the Consolidated Fund was ordered to be kept by the Irish Treasury, and the Vice-Treasurer was obliged by the act to lay an account before parliament in each session.

By this statute the position was reached that the crown could not alienate the Hereditary Revenue, that the expenditure of all public funds was at the sole direction of the House of Commons, and that the system of King's Letters, Royal Sign Manual Warrants, and British Treasury control of issues was abolished. The act established a Civil List; but it will be noticed that it was not what is now called in the British fiscal system a Civil List. It was not until a much later date[13] that the modern British Civil List was restricted from its original proportions, when it included all the civil expenditure of the nation, to its present form confined to the personal and household expenses of the royal family. There is an obvious danger of confusion since the expression Civil List means two totally different things at different periods.

Excluding pensions, the Irish Civil List was, in 1793, fixed at £145,000. By Royal Sign Manual Warrant dated 30th October, 1794, the charges on the Civil List were stated in detail. The main heads are shown in the following statement.[14]

IRISH CIVIL LIST ESTABLISHMENT, 1794.

	£	s.	d
Salaries etc. of State Officers (including Lord Lieutenant and Chief Secretary)	59,409	2	2
Salaries etc. Court of Chancery	7,859	0	9
,, ,, Court of Exchequer	25,701	14	10

[13] 1 Will. IV., c. 25, and 1 Vict., c. 2.

[14] *P. I and E. Returns* (Chisholm), Part II, Appendix 13.

	£	s.	d.
Salaries etc. Court of King's Bench ...	6,749	5	1
,, ,, Court of Common Pleas ...	5,307	10	0
,, ,, Customs Officers	5,248	6	8
Incidents	6,875	6	0
Salaries etc. Court of Appeals	1,500	0	0
,, ,, Court of Admiralty ...	700	0	0
,, ,, Officers of Imprest Accounts	4,400	0	0
,, ,, Barracks and Board of Works	3,350	0	0
Allowances to Non-conforming Ministers	7,700	0	0
Secret Service	5,000	0	0
Concordatum	5,000	0	0
Unappropriated	199	14	6
Total	£145,000	0	0

The Irish Civil List remained at this figure until after the union of legislatures in 1801 and until after the union of treasuries in 1817; and on the accession of George IV in 1820 it was still retained at the sum of £145,000 (or £138,846 in British currency) to pay the expenses of the civil service in Ireland.

The amount granted for pensions, £124,000, became gradually reduced as pensions ceased by death. Parliament was at liberty to grant pensions without a limit, and after 1794 the government sometimes applied to the House of Commons for permission to establish a new pension.[15] Without parliamentary sanction the most that could be granted in any year was limited to £1,200. By 1813 the amount of pensions was reduced to £80,000. In 1820, when George IV came to the throne, the Irish pensions were £67,300 and the English Pensions £74,200 and the Scottish pensions £37,100. Eventually Civil List pensions to reward merit not ignominy became a distinct feature of the British scheme of fiscal appropriation, and the old pension list so much hated and reprobated in Ireland ceased to exist.

By the Place Act of 1793 (33 Geo. III c. 41) any person

[15] *C. J.*, Vol. XVII, pp. 327-328.

appointed after the date of the act to a government place of profit, or holding a government pension, or whose wife held such a pension, was debarred from sitting in Parliament, but the holder of a place of profit under the crown was entitled to seek re-election, after vacating his seat, and, if re-elected, to hold both the seat in parliament and the government office.[16] This weak-kneed act was effective only in regard to state pensioners. Without a reform of parliamentary representation the act was rendered in practice inoperative because re-election was a simple matter.

The act 33 Geo. III c. 41 empowered the King to appoint Treasury Commissioners in lieu of the Lord High Treasurer; and the Commissioners, their permanent secretary, and the Dublin Revenue Collectors were permitted to hold seats in the House of Commons, in order that their official acts might be the more readily brought home to them there. The Lord Lieutenant announced to the parliament on 21st January, 1794, that his Majesty had appointed a Commission under the Great Seal to execute the office of Lord High Treasurer "in order that the Payment of the Civil List granted to his Majesty, and a regular Appropriation of the Revenue to distinct Services, may be carried into Execution in a Manner as comformable to the Practice of *Great Britain* as the relative Situation of this Kingdom will permit ".[17] Commencing with the year 1794/95 a proper appropriation of supply was made by the House of Commons, specific sums being voted for each separate service. The "votes," apart from the Civil List establishment already fixed, were as follows :—

Army.
Army serving abroad.
Additional Pay to Regiments on Duty in Dublin.
Allowances to Muster-Master General.
Charge of Governors of Garrisons.
Charge for Recruiting.

[16] The Act 38 Geo. III, c. 36, makes this perfectly clear.
[17] *Commons Journals*, Vol. XV, p. 280.

Charge of half-pay officers.
Officers' widows.
Extraordinary Forage.
Ordnance.
Contingencies of the Army under Barracks.
Royal Hospital.
Royal Military Infirmary.
Militia.
Contingencies of the Militia under Barracks.
Civil Buildings.
Associate and Assistant Judges.
Chief Remembrancer—Compensation for Loss of Office.
Office of Solicitor in Criminal Causes.
Pratique in Port of Dublin.
Printing and Stationery of Government Departments.
Printing proclamations.
Apprehending public offenders.
Officers' fees on passing public Bills of session.
Various allowances and grants following the pre-1794 appropriation practice.[18]

The Commission appointing Treasury Commissioners was issued on 25th December, 1793, revoking the appointments of Lord High Treasurer, Vice-Treasurer, Receiver-General and Paymaster-General, and Treasurer-at-War, and appointing seven commissioners in their place to perform all acts capable of being performed by the Treasurer or Vice-Treasurers. The first Commissioners were Richard, Earl of Shannon; Sir John Parnell, Bart., Chancellor of Exchequer in Ireland; John Beresford, one of the Commissioners of Customs and Excise; Sir Henry Cavendish, Bart.; William Conyngham; Robert Hobart, Chief Secretary of Ireland; John, Earl of Westmoreland, Lord Lieutenant.

On the same date a patent of appointment of Paymaster and Receiver-General of Ireland was issued.

[18] *C. J.*, Vol. XV, pp. 294-7; and 34 Geo. III, c. 4.

This office had formerly been held by the Vice-Treasurers; but from December 1793 the post was separately given to one person (the first holder was Henry Theophilus Clements) and a salary of £500 per annum was attached to it, together with an allowance of £994 a year for payment of clerks and of £246 per annum for stationery, coal and candles in the treasury offices.

Having appointed responsible resident Treasury Commissioners, the next step was to frame suitable regulations for the receipt and issue of public money. Before the end of the 1794 session, leave was given for the introduction of bills to regulate the treasury and the audit office, but sufficient time was not left to complete the legislation. When the 1795 session opened, Mr. Forbes presented a set of regulations to form the basis of discussion, and these were considered by the House in Committee, and on 23rd February, 1795 the report of resolutions was made to and agreed by the House of Commons. It was recommended as a broad general rule of guidance that the Treasury in Ireland should be patterned after the model of the British Treasury. In order to prevent defalcations by revenue collectors and to avoid the accumulation of large balances in their hands, the Treasury should have " full Powers of Control and Superintendence over all Officers of Receipt and Expenditure " and should be empowered to penalise neglectful or turbulent officers. It was essential that the office of Commissioner of the Treasury should not be held by any person engaged in the collection or management of any branch of the public revenue. The responsibility for the issue of public moneys should rest entirely on the Board of Treasury. The check exercised in the British Court of Exchequer by the Auditor, Clerk of the Pells and Teller should be made real and effective in the Irish Exchequer. The office of Receiver-General, Treasurer-at-War and Paymaster should be abolished, and a Receiver-General of Customs and Excise appointed to attend daily at the Custom House, Dublin, and to pay into the Treasury weekly all receipts of Customs and Excise. The Teller should draw upon the official account

with the Bank of Ireland, and specify in each draft the particular service for which the amount was drawn. In future cash should not be issued to subordinate paying-officers; but they should be authorised to draw upon the Bank of Ireland on accounts established at the Bank by the Treasury, specifying in each draft the service for which the amount was taken out.[19] The Governor and Company of the Bank of Ireland were obliged by the act embodying these resolutions (section 26) to transmit to the Treasury Board and to the Privy Council a weekly abstract of receipts and payments on the account of the Teller. The arrangement with the Bank of Ireland[20] had been made in 1782 when the House of Commons addressed the executive " that his Majesty will be graciously pleased, if he shall think fit, to order that his Vice-Treasurers, Receivers, Paymasters-General and Treasurers-at-War, their Deputy or Deputies, do deposite in the said Bank all public Monies which shall be then in their Hands ". A King's Letter was issued on 27th May, 1783, directing that all public monies should be lodged in the bank as soon as it should be established. The Teller lost his huge fees and was granted a compensatory allowance of £1,750 a year from 1783.

The resolutions of the House of Commons were embodied in the Act 35 Geo. III, c. 28, passed in 1795. The preamble of the Act, repealing 10 Henry VII, chap. 1, is a reminder of the antiquity of the exchequer arrangements which were now for the first time being overhauled. The recently severed office of Receiver-General was suppressed and a compensation given, in the form of a life annuity of £3,500 to the officer together with a life annuity of £600 to his wife. The salary attaching to the post had been £500 per annum with fees; and the compensation indicates the prodigality of the fees as well as the remarkable bargaining-powers possessed by those civil servants who were also politicians. The offices of First and Second Chamber-

[19] *Ir. Parl. Deb.*, Vol. XV, pp. 130/131; *C. J.*, Vol. XVI, pp. 79/80.
[20] Established 1781. (21 & 22 Geo. III, c. 16.)

lain were also abolished; and the Crown was empowered to appoint a Receiver-General of Customs and Excise, with a yearly salary of £1,000. True to the responsibility principle, provision was made to enable the Receiver-General of Customs and Excise to have a seat in parliament. The Chief Baron and the other three barons of the Exchequer were awarded an allowance of £200 per annum as compensation for the fees to which they had been entitled on passing the public accounts.

The new arrangement made in 1795 rendered the Commissioners of the Treasury responsible to the Lord Lieutenant for the receipt and issue of public funds. The Commissioners of Customs and Excise and the Commissioners of Stamps were obliged to furnish quarterly accounts to the Treasury, and to observe all Treasury rules concerning the assessment and collection of the duties in their charge and the management and disposition of the revenue before it reached the Exchequer. The act directed that no person employed in the Revenue should be at the same time a Treasury Commissioner. The Treasurers of the Board of Works, Post Office, and Ordnance were placed under obligation to transmit weekly abstracts of their accounts to the Treasury Board. The new Receiver-General of Customs and Excise was required to remit weekly to the Teller of the Exchequer. The receipts given by the Teller to the Receiver-General, stating the heads of revenue, were copied in the Auditor-General's Office, and in the Office of the Clerk of the Pells. The Receiver-General made a return of his receipts each day and each week to the Auditor-General. The Auditor-General was therefore in a position to check the receipts in the hands of the Teller, and he was obliged to send an account each week to the Treasury Commissioners, and also to the Lord Lieutenant. The Clerk of the Pells was placed in a similar position by the statute and was bound to make similar returns. Both the Auditor-General and the Clerk of the Pells had to countersign all debentures presented to the Teller for payment, and they had therefore an account of all issues made from the Exchequer.

They were obliged by the act to render a weekly account to the Treasury Commissioners and to the Lord Lieutenant of all such issues, including imprest issues or issues advanced "on account". The Clerk of the Pells examined the Teller's accounts at the end of each week and certified as to their correctness. He was required to examine carefully all imprest certificates and to prepare for the information of the Treasury Board statements of "receipts, issues and remains".

It is a commonplace of financial theory that an efficient control of public funds is impossible if the revenue receipts can be diverted from the channel which leads to the safety of the Exchequer Account, or if issues can be made from the Exchequer without the sanction of parliament. The two objects for which the ancient Exchequer was devised were to secure the King's Treasure in its receipt and to guard against misapplication in its issue. The complex system was based on a conviction of the irresponsibility of the public official. The changes made in Irish financial administration in 1793 and 1795 were in two directions. The first had reference to parliamentary appropriation. Until 1793 the financial position was anomalous and the country suffered from the anomaly. The crown was independent up to a point, but the point was so far short of its needs that it was in fact dependent upon the good-will of the Commons for supplies. The commons had to submit to the outworn theory that the supplies they granted were merely "additional", that is to say, were given to supply a deficit in the accounts. It was not properly a deficit; for the Hereditary Revenue was a fund permanently inadequate to meet the current expenses of government, and without the "Additional Duties" the government must have become financially insolvent. Neither the crown nor the commons had a complete control of the purse, and the result was that the commons used what power it had to burden the nation with heavy grants, while the crown, uncontrolled in expenditure, turned economy out of court. It is strange that the curse which affected Irish financial government should

have so pursued the nation that, after 1793, seven years of war prevented a balancing of accounts, and, after 1800, the absence of any accounts or any financial responsibility led to an extravagant administration which was the more lauded, or perhaps the less denounced, the more extravagantly it succeeded in drawing funds from the common Exchequer. It is stranger still that the country which inflicted upon Ireland financial irresponsibility should have learnt no lesson from the past, but should still in the twentieth century withhold from the government of Northern Ireland any interest in economical administration.

The second change made at this period was in the direction of official responsibility. The principal defect of the old administration was that the chiefs who were paid for responsibility took no part in the actual working of the Exchequer; while the duties were performed by subordinates, each supervising the other, who were remunerated on the vicious fee principle. The new arrangement was not ideal; but it was a vast improvement on the old. The establishment of the Bank of Ireland and the transfer to it of the government accounts relieved the state of an unknown liability to which, while the moneys were retained in the Court of Exchequer, it was always subject. The centralisation in the Board of Treasury of authority over all officials of the Revenue Department made it possible to ensure that receipts of taxes were transmitted without delay to the Exchequer and that large balances were not held by local collectors. The Board of Revenue and the Board of Stamps had grown up apart from the Exchequer. Such bodies were unknown when the institution was originally formed. No reformation was made to enable these new departments to fit in with the old organisation; and until 1795 there was no central responsibility. The Act of 1795 was a painstaking attempt to vest ultimate responsibility in the Treasury. Section after section of the act places responsibility upon various officials to furnish regular returns to the Treasury Commissioners. The result was that at all the stages by

which the tax receipts passed on their way from the taxpayer to the government creditor, returns kept reaching the Treasury, and there was an adequate check upon every revenue officer.

There still remained one branch of the financial administration which needed attention. The Commissioners of Imprest Accounts examined the accounts of the numerous bodies to which government grants were made. The ancient Board of Accounts consisting of the Lord Chancellor, the Chancellor of the Exchequer, and the Barons of the Exchequer, *ex-officio,* had come to an end in 1793 when the Civil List Act repealed the act 10 Henry VII, cap. 1. The Commissioners of Imprest Accounts were not authorised, either in 1793 or in 1795, to audit the general accounts, and it was clearly the intention of the legislation of 1795 that the final audit of the national accounts should be performed by the Treasury Commissioners with the assistance of the Auditor of Foreign Imprest Accounts, and of the Accountant-General, to whom the Auditor-General of the Exchequer was obliged to send every quarter-year, half-year and year, all accounts approved by him (sec. 14, 35 Geo. III, c. 28). The Accountant-General was an official of the Revenue (Customs and Excise) Department, originally appointed in 1661. From 1695 until 1698 he was legally responsible for the examination of all accounts with the exception of those in the care of the Commissioners of Imprest Accounts, and those still audited by the Auditor of Foreign Accounts and Imprests.[21] In 1798 a change was made by the act 38 Geo. III, c. 56: "An Act for the better Regulation and Examination of Publick Accounts". The office of Auditor of Foreign and Imprest Accounts was abolished, making one further simplification of the old Exchequer; and Frederick Nugent, Earl of Westmeath, who held this office, was granted as compensation a life annuity of £1,000, and his wife was granted a life annuity of £1,000.[22] His duties in connection

[21] See Chap. 10.

[22] It will have been remarked that in the Irish Civil Service of old, as to-day, matrimony was encouraged.

with civil service accounts were transferred to the Commissioners of Imprest Accounts. Authority was given for the appointment of an Examinator and Comptroller of Military Accounts to examine all army, ordnance, barrack, commissariat and other military accounts and to certify to the Lord Lieutenant and to the Treasury Commissioners, thus recognising the authority of the Treasury over the military accounts. Provision was made for the appointment of an officer to prepare the civil accounts for examination by the Commissioners of Imprest Accounts. The act required that regimental accounts should be passed every month, commissariat accounts every three months, and ordnance, barrack and other military accounts every six months.

The system thus established by piece-meal legislation was unsatisfactory; but the Irish parliament was not allowed sufficient time to plan a better arrangement. In 1799 a bill was introduced for appointing one body of Commissioners of Accounts responsible for auditing all the national accounts. The bill required the commissioners to report to parliament on the existing system of receiving, collecting, issuing and accounting for the public money, and to suggest improvements with a view to a more complete audit and control. The bill did not pass the second reading. It was indeed found that in April, 1799 the government had issued no orders to the treasury respecting the new procedure of accountancy authorised by the act of 1798. The session was coming to an end when these matters were debated; and the next session, that of 1800, was fully occupied with the project of legislative union.

It is impossible to criticise the results of the financial changes made in 1793 and 1795. The war with France and the Irish Rebellion made the period until 1800 in the realm of public finance one of extraordinary difficulty for the Irish parliament. It was not practicable then, any more than it is now, to control expenditure in time of war. It is unfortunate that the seven years of financial independence were also seven years of war-finance.

In the arrangements it made, the Irish House of Commons was reaching out towards the position occupied by the British parliament, with the enormous disadvantage of an executive government which was not responsible to parliament. The efforts of the commons were still thwarted by the government. The Treasury Act of 1795 was administered in a way which made it least effective for the end in view. The executive, through the Chief Secretary's Office, interfered unduly with the treasury in its control of the revenue boards. There were instances, where submissions had been made to the Lord Lieutenant and to the treasury simultaneously, for the information of the Lord Lieutenant and for an order by the Treasury Commissioners, of instructions being issued from the Chief Secretary's Office contradicting those issued from the treasury. The result was that the control with which the legislature had invested the treasury was removed from it by the executive. The Chief Secretary was a member of the Treasury Board. Through him the executive was able to stultify the treasury. The patronage of revenue appointments was in the hands of the Lord Lieutenant. "The faithful and exact collection of the Revenue could not be effectually enforced, but by the direct authority of the Lord Lieutenant, in whom the Patronage resided. His Excellency might exert this authority through the Treasury Board or through the Chief Secretary, and he probably did so occasionally through each—altho' I believe the Chief Secretary, notwithstanding an efficient Treasury Board and Chancellor of the Exchequer, continued to be the Lord Lieutenant's *chief Minister* even in the department of the Revenue and Finance."[23]

The House of Commons gave the treasury a voice in the army expenditure, although the executive had always held tenaciously to itself such control, to the exclusion of any subordinate body. The act of 1798 was not, in fact, made operative; and the treasury had no power to intervene in the army accounts except by direct order of the executive in particular instances.

[23] *B. M. Addl. MSS.*, No. 31237, f. 71.

Doubtless, in time, such abuses of power by the government would have come to light and received the attention of the House of Commons. If the acts passed were not satisfactory to the administration, remedies could have been found; if, as seems to have been the case, the executive was flouting parliament because it resented any detailed control of finance such as a body like the treasury could alone exercise, the House of Commons could have asserted the constitution and gradually accustomed the Irish government to some necessary restraint. At 1799, the Irish parliament had reached a strong jumping-off position. Its subsequent progress would have been rapid. It might have been original, and have added something to the usefulness of the parliamentary institution as we know it, though it would have been unwise to have prophesied as much at 1799. Until that time the ambition of the Irish parliament had been no more than to achieve such freedom of action in the government of the country as was enjoyed by the corresponding body in Great Britain. The early Committees on Public Accounts are probably the only subject to which one can point as a bettering of the proceedings at Westminster. Interesting as the development, in such strange conditions, of the Irish parliament had been until 1800, one should reasonably expect more important achievements in the nineteenth century, if the parliament had been allowed then to exist; achievements which would have anticipated some twentieth-century problems such as that known in Ireland as "the implementation of co-equality", and have enabled the practice of dominion status to advance with, instead of lagging behind, the corresponding theory.

CHAPTER XII

The Union of Debts

The union of England and Ireland had been advocated by individuals in Ireland before the dawn of the 18th century. Petty, for one, had a plan drastic and eugenic. Molyneux's suggestion for a union of legislatures was burnt with the rest of his condemned book. Sir Richard Cox, in 1699, gave interesting reasons for a union. His two letters are quoted below.[1] "Your

[1] "Dublin, 28th October, 1699. And perhaps a few years will convince you that you must not only take as much care of our property's as your owne, but also that it is your Interest to unite and Incorporate us with England, for by that meanes the English Interest will be always prevalent here, and the K'dome as Secure to you as Wales or any county in Engld. Your Taxes will be augmented, especially at Sea. Your Fleet when one Squadron of It has its Station at Kinsale will have double the Effect upon any Enemy it has now, all our Money will still center at London and our Trade and communication with England will be soe considerable that we shall think ourselves at home when there, and where one goes thither now, Ten will goe when all our business is transacted in your Parliamt. to which if we send 64 Knts for our 32 Countyes & 10 Lords and 6 Bishopps, They may spend our Money, but cannot Influence Your Councills to yr Disadvantage."—(*British Museum, Additional MSS.* No. 38153.)

"Dublin, 14th Novr., 1699. Sir, As to the Union, I think it necessary for both Kingdoms. Perhaps the Eng. Interest in It cannot long be otherwise preserv'd. At this day the Eng. seem the least in Number of the three Partys in Ir. and of these, the best affected and best able will return to Engld. unless you use Us more kindly, and the rest will herd with those of their Fellow Sufferers They think most in their Interest.

By the Union Eng. will gett much of Our Money, & abundance of Our Trade. The former we shall Spend in London upon Severall Occasions, The latter will be render'd more easy then forreign Trade, and consequently more practic'd by a Lazy people as we are. They will obtain a great accession of Strength especially by Sea, if they use our Southwest Ports, for 'tis certain that a Squadron at Kinsale would more Secure our Commerce & offend an Enemy, then all the Fleet of England in the Downs or at Portsmouth. By their Union Ireland will be as part of Engld. and the English will have greater Opportunities of Trade and of purchase, & Provideing for their Children then now they have, and ease themselves of Taxes.

As for the benefits ariseing to Us, One need say noe more, but that It will render us Safe, And the Eng. Interest So predominent that in a Generation or Two, the Scotts, Irish, and all Foreigners will be perfect English, as that which only will be fashionable, and as that to which all our Nobility, Gentry and Lawyers will be educated.

The greatest Obstacle I can foresee there, will be from yr Nobility and Marchants. The former will never endure all the Irish Nobility to Sit in the house, nor perhaps above 20, and the Irish Lords will grumble to Loose their Peerage

Taxes will be lessened when we beare part of the Burden ". This was one of the two reasons why financial union was not synchronous with constitutional and legislative union. A strong attack had been directed against the union proposals based on the forecast that Ireland would be more heavily taxed as part of the United Kingdom than as a separate independent kingdom. This was denied by Pitt and Castlereagh; and the financial article (7) of the Act of Union contained certain safeguards which might at the date of union be construed to mean that in fact Ireland would not suffer any financial losses by uniting with Great Britain. The comparatively large national debt, incurred in Ireland as a result of the war with France and the rebellion, was only about one-sixteenth of the British debt. This was the second reason why the financial resources of both parts of the United Kingdom were not at once pooled. By article 7, Ireland's capacity to contribute to common expenditure was determined at two-seventeenths of the whole. Ireland's capacity was therefore fixed at double her debt-ratio; although the burden of debt was obviously more onerous to Ireland than the proportionally larger British debt to Great Britain.

Article 7 of the Union, providing for the continued separation of the revenues and exchequers, is an admission that complete union must have represented an immediate financial loss to Ireland. The Irish revenues were still to form the Consolidated Fund of Ireland according to the provisions of the Irish Act, 33 Geo. III, c. 34. The two existing debts and their sinking-funds were to be kept separate. For a period of twenty years, Ireland was to make a contribution from her Consolidated Fund equal to two-seventeenths of the public expenditure (excluding debt service) of the United King-

The Temper may be, To admitt the Irish Lords to freedom from Arrests, Precedence according to Seniority & Title, and all other Priviledges of Peerage except that of Sitting in Parliament for this does not hurt Eng. Peers, & yett gives the Irish an Equivalent for their vote. As for the Merchants and Tradesmen, They will be for Monopolizeing of Trade and agst. our Liberty, not considering the Publick advantage, nor that the communication of Trade does not make it lesse."—(*British Museum Additional MSS.* No. 38153.)

dom. In 1821, the Parliament of the United Kingdom was to examine :—

(*a*) the real values of the imports and exports of the two countries in the three preceding years; or
(*b*) the consumption in the two countries of beer, spirits, sugar, wine, tea, tobacco, and malt; or
(*c*) the respective national incomes, based on Income Tax statistics.

From its examination of the relative wealth of the two countries, parliament was to revise the 2 :15 proportion of joint contribution. A similar revision was to be made at least every twenty years afterwards. Debt incurred after the date of Union was to be the joint liability of the United Kingdom, chargeable to Great Britain and to Ireland according to their contribution ratios. The Irish Consolidated Fund was to be replenished by the proceeds of taxes imposed by the United Kingdom parliament, provided that the tax on any single commodity should not be higher in Ireland than in Great Britain. From the Irish Consolidated Fund were to be paid, as a first charge, the expense of the separate Irish debt, and as a second charge, the contribution to United Kingdom expenditure. Any balance was to be used to reduce taxation in Ireland; or for " local purposes in Ireland "; or to make good a prior deficiency in the national accounts; or to accumulate, in the hands of the Irish National Debt Commissioners, at compound interest, to meet any exceptionally heavy contribution in time of war, provided that the surplus allowed to accumulate in the hands of the National Debt Commissioners should not exceed £5,000,000.

These seem to me to be the non-contentious provisions of Article 7. The effect of them was that two budgets had to be brought before the Commons at Westminster each year; one introduced by the Chancellor of the British Exchequer for Great Britain, and one for Ireland by the Irish Chancellor of the Exchequer. The separate Irish Exchequer and Revenue Boards still remained

in existence, as independent in administration as before the Union. The change made at 1801 affected parliament mainly, and the method of enacting fiscal legislation. If Article 7 had contained no other provisions, and periodical revisions of the contributions to United Kingdom expenditure were made, the anomaly of separate Exchequers, for such it was, would have prevented the great injustice of indiscriminate taxation; and a continuous attempt at a practical solution of the difficult problem of taxable capacity would have been made by the United Kingdom parliament. For twenty years, from 1801 to 1821, the ratio, 2 to 15, would have remained unaltered, whether experience proved it to be fair or unjust; but from 1821 onwards more accurate determinations of Ireland's relative ability to contribute to common expenditure could have been made, and it would not have been expedient in the latter part of the 19th century to collect taxes by one body of officials and wistfully to redistribute a portion of the taxes amongst another body of officials, to percolate, in part and wastefully, back to the inhabitants of Ireland.

If objection in Ireland had not been so strenuous on the financial aspects of Union, the revenues would, at once at 1801, have been joined. It was, to the ministerial mind, a drawback that for an indefinite period, possibly for ever, the debts and revenues should be kept separate. It was felt that a provision for immediate community of taxation in the United Kingdom would have jeopardised the measure; and in order to meet the difficulty, the complicated scheme of contribution and periodical examination was introduced. There is strong evidence that the ministers anticipated that the system would never be required; that they intended to ensure, as in fact they did ensure, that before 1821 the debts would be amalgamated. An examination of Article 7 provides the evidence, which is strengthened and confirmed by statements made in the debate on the articles in the British House of Commons.

The seventh article provided that if the separate national debts of Great Britain and Ireland should both

be completely liquidated, or if the separate debts should come to be in the same proportion as the contributions towards general United Kingdom expenditure, the United Kingdom parliament, if satisfied that the respective circumstances of the two countries admitted of their contributing indiscriminately in the future by equal taxes on commodities to the general expenses of the United Kingdom, might declare that the revenues and debts should be joined and a system of common taxation of commodities established, subject to such particular exemptions or abatements in Ireland (and also in Scotland) " as circumstances may appear from time to time to demand ". The debt of Great Britain at 1801 was £420,000,000; and the country was still threatened by Napoleon; and the debt was every year increasing. There could obviously be no complete liquidation of the debt within twenty years. The practically important provision, leading to exchequer unification, related to the proportion of the separate debts. The British debt was then to the Irish as 16 is to 1. If the British debt should decrease by one-half, or the Irish debt double itself, the Exchequers could be amalgamated, provided that the circumstances of the two countries admitted of a system of indiscriminate taxation. This would have been a fair reserve provision, if it were intended to be a provision for exceptional circumstances; that is, if the ratio of contribution was just to Ireland and the Irish Chancellor of the Exchequer should prevail upon the United Kingdom parliament to keep taxation low in Ireland, so low as to prevent this fair contribution from being raised, although the country could reasonably afford to pay it. If, on the other hand, the proportion 15 to 2 was unfair, and known at the beginning to be unfair, the proviso regarding debt arising from the contributions was not intended for exceptional circumstances, but only to ensure that the Irish separate debt should increase in order to enable parliament to unify the financial administration and impose a common system of taxation. Apart from reduction on a grand scale of the British debt, there

was no means by which the Exchequers could be united except an increase in the Irish debt. Since debt incurred after the date of Union was to be joint debt of the United Kingdom, the Irish debt could increase only by making Ireland's contribution excessive, and so forcing borrowing, or else by some device by means of which part of the post-Union debt could be made specially onerous for Ireland.

Although the National Debt of Ireland at the time of Union was only between one-fifteenth and one-sixteenth of the British debt, while Ireland's relative capacity was deemed by the Act to be two-seventeenths, great difficulty had been experienced by the Irish Parliament in raising loans on even the most onerous terms. In 1797 the House of Commons authorised a loan of £3,395,696 at 5 per cent at 92.[2] It appears, however, from a message from the Lord Lieutenant read to the House that it was found to be impossible to raise the amount on these terms. The commons then authorised the government to raise the rate of interest from 5.43 per cent. to nearly 8 per cent. for long-term loan and 6½ per cent. for Treasury Bills.[3] Even so, the amount could not be obtained on the credit of the Irish government, and it became necessary to borrow from the British treasury, so that Ireland might, in the Lord Lieutenant's words, "maintain the Honour and Security of the Empire in the present Exigency ".[4] On May 2nd, 1797, the British House of Commons, on a Royal Message, passed a resolution providing that remittances not exceeding £1,500,000 might be made from the British treasury for the King's service in Ireland, if the Irish parliament should agree to make provision for payment of the interest and charges. On May 9th, the Irish House of Commons agreed that this sum (£1,625,000 Irish) might be received and that interest at the rate of £6 7s. 6d. per cent. per annum would be paid; and a Sinking Fund of £1 19s. 10d. per cent. per annum was

[2] 1st March, 1797. *C. J.* Vol. XVII. p. 56.

[3] Debentures at 5% at 63: Treasury Bills at 6% at 92.

[4] 15th January, 1798, opening 1st session of 6th parliament of Geo. III.

established to clear the debt. Between 1797 and 1798, the funded debt of Ireland was increased from £5,825,056 to £10,128,906; in 1799 to £16,508,790; and in 1800 to £24,207,290. In 1798, the commons gave authority for a further loan from Great Britain of £2,166,666 13s. 4d. (£2,000,000 Br.). It was clear at the time of the Union that Irish credit was weak out of all proportion to British credit.[5] Since the joint expenditure of 1801 to 1817 was mainly war expenditure, and it was necessary to borrow, both in Great Britain and in Ireland, to balance expenditure, the credit of the two countries was a factor of the first importance in their post-Union financial relations. As if in anticipation of further borrowing in 1801, article 7, while it provided that " all monies hereafter to be raised by loan in peace or war for the service of the United Kingdom, by the parliament thereof, shall be considered to be a joint debt ", added that if the parliament should, in raising the respective contributions towards the service of joint debt, make separate sinking-fund provisions for the liquidation of the loan raised on account of one country from those for the liquidation of that raised on account of the other country, such part of the loan for which separate sinking-fund arrangements should be made should be kept distinct, *i.e.*, added to the pre-Union debt. Here, then, was a second way in which Irish pre-Union debt might increase. It was common ground that Ireland's credit was much lower than Britain's, relative to the actual debts at the Union.[6] In raising debt, Ireland had either to grant a high rate of interest, or to add what Professor Nicholson during the last war used to call " war bonuses " to investors. It was for this reason that debt was to be computed by article 7 not merely according to the nominal amount, but "estimated according to the amount of interest and annuities attending the same, of the sinking fund applicable to the reduction thereof, and the period within

[5] In computing Ireland's capacity to contribute to joint expenditure, the relative capacity to raise loans was not considered.

[6] How much lower, then, relative to the fanciful "capacity" proportion of 2 to 15?

which the whole capital of such debt shall appear to be redeemable by such sinking fund ". Pound for pound, Irish debt was dearer than British debt because Ireland's credit was unequal even to her debt at the Union.

So often, in the debates at Westminster on the Union, was it denied by government and government supporters, that there was any desire on the part of Great Britain to " make capital ", literally speaking, out of the transaction that one is tempted to the conclusion that the consciences of the speakers were interrupting their arguments. Pitt said: " I hope the zeal, the spirit, and the liberal and enlarged policy of this country has given ample proof that it is not from a pecuniary motive that we seek a union ". When Sheridan spoke sarcastically of the benefits which Great Britain was magnanimously offering to share with Ireland, saying: " They might, perhaps, have the further advantage of coming into an equal participation of the share in 400 millions of debt owing by this country ", members interrupted, " No! No!" Yet when a stupid supporter of Union, Mr. Carew, objected to article 7 " as not precisely expressing that an identity of taxation should take place between the two countries ", Pitt was forced to say that " for the present it would be wise and politic not so far to offend existing local prejudices as to require immediately an equal portion of burthens to be sustained by Ireland, but to exact for the present only that proportion which Ireland hitherto paid in time of peace and war." Earl Temple, commending the Union, imagined a stranger coming to Dublin, and discussing with an anti-unionist the proposals. " What, then, Ireland is to pay the debt of England? I really do not wonder at your unwillingness to pay a debt not of your own contracting. No; not quite that; we shall not be obliged to pay one sixpence more of debt than we are now. Why, then, you are to pay English taxes? No (how stupid are you not to discover our grievances), we shall not be obliged to pay one shilling of English taxes ". Peel pressed hard for the amalgamation of the national debts, lest Ireland, so lightly taxed, should

attract British manufacturers; and he hoped that " the firmness of administration will be such as to refuse all concession to menace and intrigue." Undoubtedly Pitt's plan was wiser and more politic, as he himself said. It represented a splendid compromise leading to a splendid paradox: to relieve Ireland, the debts were kept separate at 1801; to relieve Ireland, the debts were joined at 1817; and Sheridan's sarcastic reference to the benefit of being allowed to share in 400 millions of debt became afterwards so little unreal that the sharing " saved Ireland from bankruptcy " to use the common phrase of political historians of the Union.

Reading the available printed material bearing on the financial proposals, it seems clear that the Irish people were given to believe that they would not have to bear a proportion of the pre-Union British debt and that they were adequately safeguarded against taxation relatively more onerous than that to which they had been accustomed prior to 1801.[7] On the other hand, Pitt desired a union of taxation as well as of constitution and legislature; and Article 7 was so framed that every encouragement was made available for the increase, real and even apparent, of the Irish debt. " The finances of both countries may be identified," he stated. " although the debt of England should exceed by a large proportion the debt of Ireland, because, by the rapid increase of the sinking fund, it may be as soon discharged as the debt of Ireland, and a large debt sooner discharged will be equivalent to a smaller debt requiring a longer term for payment." This ingenious reasoning indicates a method by means of which, if necessary, it was proposed to bring the ratio of debts into line with the ratio of contributions. Considering how sinking funds were regarded in 1800, that debt was incurred in order to feed a statutory sinking fund, it is easy to see that at any time the British debt could, by such a fictitious sinking fund, be reduced at the expense of

[7] Cf. *Hansard*, Vol. 34, col. 601. Irish Chancellor of Exchequer: " Ireland had been led to expect that her expenditure would have been less than before she was united with you."

post-Union, and therefore common, debt. Britain with her pre-Union debt of £400,000,000 could have in fact reduced it to £2,000,000 by re-borrowing that sum after the Union and paying off the holders of the original loan. Pitt's scheme was less obvious but more dishonest; because his proposal was that a British debt of £400,000,000, with a sinking fund provision for its discharge in 40 years, was to be regarded as double a debt of the same amount with a twenty-year amortisation fund.

Article seven provided how a surplus of Irish revenues over Irish charges should be applied; and it provided, by the debt clause, how a deficiency should be met. Lord Castlereagh, in the Irish House of Commons, clearly expressed his view that the practical clause was that relating to deficits. Speaking on 5th February, 1800, he said, "Great Britain has at length established the great principle of raising a great part of her supplies within the year: this island is not at present in a situation to adopt a similar system, the consequence of which is that the debt of Great Britain will hereafter increase in a much less degree and be more rapidly liquidated; whilst the debt of Ireland will be increasing with greater rapidity". That is exactly what happened; and by 1812 the pre-Union debts, plus the added post-Union debts, were about in the ratio of 15 to 2, while in 1817 the ratio was about 13 to 2. The British debt increased from £420,000,000 to £693,000,000 between 1801 and 1816; the Irish debt increased from £27,000,000 to £107,000,000 in the same period. In 1801 the British unfunded debt was £M 26, and the Irish £M 1.5; in 1817 the figures were £M 4 for Great Britain and £M 5 for Ireland. The contribution ratio had proved to be unjust to Ireland. The debt-ratio at 1801 had reflected more accurately the relative taxable capacities of the two countries. If the debt-ratio had been used to determine the contributions to joint expenditure, or used even to correct the calculations upon which the contribution proportions were fixed, Pitt's dream of a united system of finance would not have been realised in 1817;

and it is doubtful if even by Gladstone's period an equalisation of taxes could legally, without fresh legislation, amending Article 7 of the Act of Union, have been effected.

The seventh article of the Act of Union was resisted by unpurchased Irish members on the ground that the ratio of contribution was unfair to Ireland. Their objection was not honestly met, unless the Union division-lists are regarded as an honest adjudication. An examination of Article 7, coupled with Pitt's speeches, shows that the contribution was the first line of attack against the barrier caused by the small Irish debt. In the result it alone was sufficient to enable the Union to be formally completed. It was more than sufficient; and instead of falling back upon the little-noticed reserves, provided for in the article, it was possible for Great Britain to be generous according to the terms of the article, and to " relieve " Ireland of part of her statutory liability.

The Select Committees[8] on the Public Income and Expenditure of Ireland were able to report that the respective debts had by the year 1811 reached a proportion approximate to that determined by the Act of Union, viz.: between 2 to 14.85 and 2 to 15.15. This was not, in law, sufficient ground to enable Parliament to declare that debts and revenues and expenditure should in future be common for the whole of the United Kingdom. Article 7 stipulated that in addition to this objective sign of equality of ratios between the two divisions of the United Kingdom, it was necessary that it should appear to the Parliament " that the respective circumstances of the two countries will henceforth admit of their contributing indiscriminately, by equal taxes imposed on the same articles in each, to the future general expenses of the United Kingdom." Only then should it be competent to the Parliament to declare for a unified fiscal and financial system of government. This condition, which is of much greater importance than that relating to the debts, has been practically

[8] First appointed 1805; see Reports *P.P.* 296 of 1806; No. 262 of 1811; No. 376 of 1812; No. 309 of 1813; No. 214 of 1815.

overlooked ever since 1801 when the act was passed.[9] The disparity of debts presented a problem of financial administration. If it alone were the obstacle to a complete union, the difficulty could have been met by keeping the pre-Union debts distinct and starting the United Kingdom with a clean balance-sheet from 1801, or with, rather, a balance-sheet containing only assets. That there was a further and a greater obstacle to union is proved by the arrangement made in Article 7 for a periodical revision of capacities to contribute to common expenditure. At 1801 Ireland was not only too happily situated with regard to debt liability to make the union good business for her, but she was also too unhappily circumstanced in the matter of her general wealth and capacity to pay taxes, to enable her to contribute proportionately with Great Britain to the United Kingdom expenditure. Ireland was like an individual possessing a small income, and many pecuniary responsibilities to dependents, and progressive rather than proportional taxation would alone have met the case as between this poor country and the better-off partner. All the arguments in favour of progressive against proportional taxation apply to Great Britain and Ireland at the time of the Union and after it.

The parliament of the United Kingdom appointed Select Committees to investigate the financial position of Ireland under the Union.[10] The last of these committees reported in 1815.[11] Their consideration of the important " ability " consideration was severely brief, and their arguments irrelevant. As Parliament itself gave absolutely no consideration to the matter, the Committee's report is quoted more fully than it otherwise might be. After a statement that Irish revenue, between 1801 and 1815, had increased in the proportion of 10 to 23; and British revenue (permanent) in the proportion of 10 to 16½; while British revenue including war taxes had increased from 10 to 21¼, they concluded : " Under these circumstances, it is manifest that no practical benefit can possibly be obtained for any part of the United Kingdom, by endeavouring to maintain a fixed Proportion of Expenditure, when that Proportion has rapidly carried the Debt of Ireland, from a state of great relative Inferiority, into a growing Excess; which cannot be met by any system of permanent taxation that would not violate the most solemn engagements. Moreover, it appears to your Committee, from the whole tenor of the Act of Union, and from the very circumstance of both Parliaments having proposed and acquiesced in certain guards and temporary Restrictions calculated to prevent the too sudden imposition of burdens on the weaker Country, before time had been allowed for the acquisition of at least equivalent benefits, that an Union as strict and perfect in matters of Finance as that existing between *England* and *Scotland* to the extent of consolidating the Treasuries and the Exchequers, must have been contemplated by the two legislatures." They therefore " with a view to the clear advantage of all parts of the Empire, to relieving *Ireland* from a Burden which experience has proved to be too great, and at the same time with the hope of rendering her Resources more productive," declared " that it is now become expedient that Parliament should take into consideration so much of the 7th Article of Union as respects the competence of Parliament, under certain circumstances therein stated, to declare that all future expenditure of the United Kingdom shall be defrayed indiscriminately by equal taxation imposed on the same articles in each, subject to such particular exemptions or abatements, etc."[12] An attempt was not made to discuss the simple question which by law ought to have been affirmatively answered before parliament could declare for a common fiscal and financial system. Did the circumstances of Ireland at 1815 admit of her accepting a liability (viz. : fiscal

[9] Cf.. for example, Miss Murray's account in her *Commercial Relations*, pp. 332-4; also the Treasury Memorandum prepared for the Financial Relations Commission, which Miss Murray follows closely.

[10] In 1805 (no report); 1806 (*P.P.* No. 296 of 1806); 1811 (*P.P.* No. 262 of 1811); 1812 (*P.P.* No. 376 of 1812); 1813 (*P.P.* No. 309 of 1813).

[11] *P.P.* 214 of 1815.

[12] Ibid., pp. 12-13.

fusion with Great Britain) which at 1801 she was considered to be unable to bear? In brief, was Ireland in a stronger tax-contributing position at 1815 than at 1801? It was quite beside the point to say, even with the solemnity of a Select Committee, that amalgamation was necessary because the existing system (based on the 2 : 15 ratio of contribution) had " rapidly carried the Debt of Ireland from a state of great relative Inferiority, into a Growing Excess." It was clear to the Committee, as it is clear now to all, that the proportion had been unfair to Ireland and had led to a position where something had to be done " with a view to the clear advantage of all parts of the Empire, to relieving Ireland, etc ". If Article 7 had said that the Exchequers were to be amalgamated when

(*a*) the debts were in the ratio of 15 to 2, and

(*b*) the advantage of all parts of the Empire would be best served by financial unification, and

(*c*) Ireland was on the verge of national bankruptcy;

the Select Committee's remarks and conclusions would have been to the point; and Ireland could not plead that the law, weighted against her, had, even so weighted, been flouted and broken. The parliamentary Committees made no endeavour to ascertain even the data necessary to enable themselves or parliament to come to a conclusion on the question of Ireland's ability to enter a complete union. The only one of the Committees which referred to the matter was that which reported in 1815; and they safeguarded themselves by the wording of their formal recommendation " that it is now become expedient that Parliament should take into consideration so much of the 7th Act of Union as respects the competence of Parliament under certain circumstances therein stated to declare that . . . .". So much for the Committee. It did not go far to help parliament to take this important subject into consideration; but it might have contended that this was not part of its terms of

reference. If the Committees had kept only to their terms of reference they should have stopped after stating the amount expended on the account of the joint expenditure of Great Britain and Ireland and the amount still due on that account; but both the Committee of 1811 and that of 1815 went further. The Committee of 1811, after reporting that the ratios of debts were then about 2 to 15, added " and it is the more important that the attention of The House should be drawn to this circumstance, as the words of the Act of Union may be thought capable of an interpretation, by which, if Parliament should not think fit to carry into effect, the consolidation of the Debts, and Expenditure of the two countries, at the period when such Debts shall have arrived at the proportion stated, it might be precluded from afterwards doing so, until such proportion shall be restored ".[13]

The proceedings in parliament were not less superficial. On May 20th, 1816, the Irish Chancellor of the Exchequer moved three resolutions in committee of the whole House, and they were agreed to without an amendment proposed or a division taken.

"1. That it is the opinion of this committee, that the value of the respective debts of Great Britain and Ireland (estimated according to the provisions of the acts of the Union of Great Britain and Ireland) have been, at a period subsequent to the said acts, in the same proportion to each other (within one hundredth part of the said value), with the respective contributions of each country respectively, towards the annual expenditure of the United Kingdom, and that the respective circumstances of the two countries will henceforth admit of their contributing indiscriminately, by equal taxes imposed on the same articles in each, to the future expenditure of the United Kingdom : subject only to such particular exemptions or abatements in Ire-

[13] *P. P.* 262 of 1811, p. 7.

land, and in that part of Great Britain called Scotland, as circumstances may appear from time to time to demand; and that it was no longer necessary to regulate the contribution of the two countries towards the future expenditure of the United Kingdom, according to any special proportions, or according to the rules prescribed by the said acts of union, with respect to such specific proportions.

2. That it is the opinion of this committee, that it is expedient that all future expenses henceforth to be incurred, together with the interest and charges of all debts hitherto contracted, shall be so defrayed indiscriminately by equal taxes to be imposed on the same articles in each country, and that from time to time, as circumstances may require, such taxes should be imposed and applied accordingly, subject only to such particular exemptions or abatements in Ireland, and in that part of Britain called Scotland, as circumstances may appear from time to time to demand.

3. That it is the opinion of this Committee, that such legislative measures should be adopted as may be necessary to carry into further effect the purposes of the said act of union, by consolidating the public revenues of Great Britain and Ireland into one fund, and applying the same to the general services of the United Kingdom."[14]

In his speech leading up to his motion, the minister did not refer to the provision of the Act of Union regarding the capacity of Ireland. He stated the ratio of the British and Irish debts; then turned to the exertions made by Ireland to provide her union contribution; and then, in keeping with his entire speech, which was an apology for asking the parliament to save Ireland from bankruptcy, he painted the future prospects of Ireland

[14] *Hansard*, Vol. XXXIV, Cols. 588 to 616.

as a revenue-producing asset. He explained, as a further attraction, that the Irish Sinking Fund bore a higher proportion to the Irish funded debt than the British Sinking Fund bore to British debt: "Our sinking fund will be richer than that with which it is united. It is to be remembered that we have never recurred to it, until we had exhausted taxation; and I may venture to promise that the utmost sum which we can want will still leave our sinking fund, as compared with the whole of your Debt, as 1 to less than 54, while that of Great Britain will be as 1 to 62. The proportion, it will be seen, is greatly in our favour, nor are those considerations to be lightly thought of ".[15] With an affected candour, he pretended to show the potential value of untapped sources of revenue in Ireland, salt and coal, while expressing the view that these commodities ought not to be further taxed. He then made an irrelevant statement of his personal wish that he could have brought forward additional proposals for the assimilation of currencies and exchanges; and he ended his speech with a hope "that we shall this night contribute to the accomplishment of that great measure, the accomplishment of that union which is the proudest monument of his reign, who for more than fifty years has swayed the sceptre of these free and powerful kingdoms. Not doubting that a united parliament will remember what it owes to that people, who have contributed so mainly to those glories, which have brightened the administration of his son. Sir, these days will pass away, but I trust that the principles of generosity and justice, which are congenial to both our people, may, like that great compact which unites them, be perpetuated by our acts, and that the interests of Great Britain and Ireland may be inseparable, Dum Domus Æneæ Capitoli immobile saxum, Accolet Imperiumque pater Romanus habebit."[16] In the debate which followed Mr. Bankes objected to the proposed arrangements, "the ultimate effect of which must be to throw

[15] *Hansard*, Vol. XXXIV, Col. 598.

[16] *Hansard* XXXIV, 588-616.

almost the whole of the burthen of the late war on Great Britain ";[17] and threatened to watch the bill closely as he wished " to take care that there might be something like restitution and reciprocity provided for, when the revenues of Ireland should be restored to a flourishing state ".[18]

The Chancellor of the Exchequer had explained, in justification of the measure of amalgamation, that there appeared to be no alternative. Mr. Bankes said the same. The other speakers were Mr. Leslie Foster, Sir John Newport, Lord Castlereagh and Mr. Ponsonby (ex-Lord Chancellor of Ireland). Both Mr. Leslie Foster and Lord Castlereagh adopted the simple argument that consolidation of the exchequers was necessary. The former quoted figures showing the excess of Irish expenditure over revenue and observed " that in consequence of this increased excess the necessity for the consolidation of the exchequers of both countries existed some years back, as it was impossible that Ireland could bear additional taxation ".[19] Lord Castlereagh said " If the debt of Ireland became so great that she could no longer provide for it, a consolidation of the two exchequers became absolutely necessary. That point at which the debts of the two countries were on an equality, had been passed in 1811. It was therefore proper that the consolidation of the exchequers should now take place without any further delay, as to go on without doing this could produce no good effect, since it would require Ireland to do that which it was already known she had it not in her power to accomplish ".[20] Finally Mr. Ponsonby said " with regard to the subject matter then before the House, he considered it absolutely necessary that something should be done, and he was not aware that any better system could be adopted ".[21] All of these repetitions were beside the

[17] Ibid., Col. 603.
[18] Ibid., Col. 604.
[19] Ibid., Col. 1, 606.
[20] Ibid., Cols. 610-611.
[21] Ibid., Col. 616.

point. The seventh article of the Act of Union did not empower the parliament of the United Kingdom to declare for a common fiscal and financial system unless it appeared to the parliament that Ireland was in a position to contribute by indiscriminate United Kingdom taxation to United Kingdom expenses. At the date of the Union, Ireland was held to be too poor to bear such a liability; at 1816 was Ireland in a better position? The question was not investigated nor answered. Consequently the resolutions passed on 20th May, 1816, were *ultra vires,* and the act passed at a later date was in contravention of the two acts of union passed by the two parliaments of Great Britain and Ireland.

Sir John Newport opened the fundamental difficulty which government and parliament were neglecting to face. He contended that Ireland " was entitled to claim a reconsideration of the unfair system of contribution which was fixed for her at the period of the union, and the injustice of which was now unravelled by her complete bankruptcy ".[22] Lord Castlereagh answered this by explaining that the alternative to the present proposals was to allow Ireland to do her best to meet her legal commitments for four more years, and then, in 1821, to revise the contribution quota. That was what the act required to be done. Lord Castlereagh did not put the matter quite so plainly : " The only question which the House had to consider was, whether they should proceed anew to regulate the quota of expense, to be borne by Ireland, according to the criterion laid down in the act of union; or whether a different measure should be resorted to in order to relieve her from her present difficulties? If the resources of Ireland were so great and so likely to fructify, as to enable her to meet the charges she had been expected to bear, that would be an argument for waiting till the twenty years had expired; but if there were no reasons for supposing she would be more able to do this at the end of the four years, than she was at the present moment, then he thought no new delay ought to take

[22] Ibid., Col. 607.

place ".[23] He suggested in this statement that the act of union could not be carried out unless there was a hope that Ireland's resources would improve between 1817 and 1821. One will in vain search the act itself for any such condition. The wording of article 7, dealing with the competence of parliament to declare for a unified system of financial and fiscal government, is clear :— " If at any future day the separate debt of each kingdom respectively shall have been liquidated, or the values of their respective debts (estimated according to the amount of the interest and annuities attending the same, of the sinking fund applicable to the reduction thereof, and the period within which the whole capital of such debt shall appear to be redeemable by such sinking fund) shall be to each other in the same proportion with the respective contributions of each kingdom respectively, or where the amount by which the value of the larger of such debts shall vary from such proportion shall not exceed one-hundredth part of the said value, and if it shall appear to the United Parliament that the respective circumstances of the two countries will henceforth admit of their contributing indiscriminately, by equal taxes imposed on the same articles in each, to the future general expenses of the United Kingdom, it shall be competent to the said United Parliament to declare, that all future expenses henceforth to be incurred, together with the interest and charges of all joint debts contracted previous to such declaration, shall be so defrayed indiscriminately by equal taxes imposed on the same articles in each country, and henceforth from time to time as circumstances may require, to impose and apply such taxes accordingly ".

The argument against the " ultra vires " conclusion is the supremacy of the Imperial Parliament. " Westminster can do no wrong." This view is based on a lack of knowledge of Anglo-Irish historical relations. The Anglo-Norman parliament of Ireland is not much younger than the Anglo-Norman parliament of England. " We have as Antient and Express an Authority for our

[23] *Hansard* XXXIV, 609, 610.

present Constitution of Parliaments in *Ireland,* as can be shown in England ".[24] Until the reign of Henry VII it was a supreme parliament that sat at Dublin. In that reign, of its own free will, it surrendered an important part of its independent powers; and by force majeure was restrained from recovering those powers when later it wanted to recall them. In time, after a long constitutional struggle, they were regained, and the parliament in Ireland was again the supreme legislative authority. Here then were two parliaments, one at Westminster, the other at Dublin, one not interfering in any way with the other, and they were equally independent parliaments. It came about that one of them, using its supreme powers, joined with the other in partnership on certain solemnly agreed conditions. These conditions were embodied in legislative enactments of both parliaments. One of the most important of these conditions was broken. Are the arguments of supremacy any weightier, apart from the military and naval forces behind them, than the arguments which prevented the old Irish parliament from recovering what it gave away by 10 Henry VII, chap. 4?

The existence of the United Kingdom parliament depended on adherence to the Articles of Union. The union of Great Britain and Ireland could not have taken effect by the action of the British parliament alone. It was a union involving a partnership, and both parties to the agreement put their hands to it. In order to alter the terms of the agreement, it should have been necessary to issue writs for a purely Irish election and reform the Irish parliament, submitting the issue to it. It may be constitutional in the convention to plead supremacy; it is not honest. Just one hundred years after 1817 a revolutionary movement was in progress in Ireland, which, like all revolutionary movements, soon developed a powerful constitutional side; and when the Irish Free State was being established two acts again were passed, one at Westminster and one at Dublin. This dual legislation contradicts the supremacy theory

[24] Molyneux, *Case of Ireland,* 1st edn., 1698, p. 51.

put forward by Keith (Constitution, Administration, and Laws of the Empire, 1924, part 1, c. 6) and Duncan Hall (British Commonwealth of Nations, pp. 259 et seq.). The dicta of constitutional lawyers that " the power and jurisdiction of Parliament is so transcendent and absolute, as it cannot be confined within any bounds ",[25] and that " Parliament hath sovereign and uncontrollable authority ",[26] need to be qualified when a partnership of parliaments is in question, or a cessation of partnership.

When the Public Revenues Consolidation Bill came before the House of Commons, an attack was launched against a proposal in the bill to appoint a Vice-Treasurer for Ireland, with a seat in the British House of Commons, at a salary of £3,500 a year, and a deputy Vice-Treasurer resident in Ireland, at £1,000 a year. The government was defeated on 17th June, 1816, and an amendment carried by 100 to 98, reducing the salary from £3,500 to £2,000. With this alteration, the bill passed the House of Commons, received little attention in the House of Lords, and received the royal assent on 1st July, 1816. The act took effect as from the 5th January, 1817.

It has been stated on many occasions that by this act, 56 Geo. III, c. 98, Ireland was benefited; she was saved from disgrace and part of her joint contribution debt was cancelled. Lord Castlereagh " speaking as an Irishman " said that he was far from feeling himself humiliated by the appeal made to parliament to unite the exchequers. Everybody, at 1816 and since then, seems to have thought that in the circumstances the act was a good thing for Ireland. Much attention has been given to the unfair contribution ratio of 15 to 2; but, granted those figures as part of the Act of Union, it seems generally to be believed that amalgamation at 1817 was a great relief for Ireland. It was not a relief, but a hardship. For three years Ireland would have had to see her separate debt increasing; but in 1821 her

[25] Coke, *4th Institute*, f. 36.
[26] Blackstone, *Commentaries*.

case for a halving of her ratio of contribution would have been irresistible; and she could have retained her financial privileges of freedom from the full weight of British taxation during the whole of the 19th century; for there was never a time, in that period, when a case could have been made to meet the provision contained in article seven. It has been objected that Ireland as part of the United Kingdom could not have been treated, for taxation purposes, as the majority members of the Royal Commission of 1894-97 treated her on paper; but if she was made a fiscal part of the fiscal whole by an act which the United Kingdom parliament had not the competence to pass, this objection fails, and leaves existing a case for reparations based on the illegality of the Revenues Consolidation Act.

Even taking the arrangements as they stood, the position was not so desperate as politicians of the period said it was. Ireland was, from 1801, tied to the expenditure of Great Britain. She was bound to pay two-seventeenths of the joint-expenditure of Great Britain and Ireland. The great war with Napoleon caused a rapid increase in expenditure; and yet, at 1816, Ireland had paid her entire share within £2,001,458. Out of a total sum of £99,052,790 she paid £97,051,332. This was Ireland's contribution to joint expenditure. In addition, she paid £62,969,548 to meet her separate expenditure.[27] Actually, the amount in default at 1816 was 2.02 per cent. of the full amount payable according to the act.

According to a strict interpretation of the financial article of the Act of Union, there was no reason why the Irish treasury should not have been at once made fully subordinate to the British treasury, nor why a United Kingdom Treasury Board should not have been established as was done at 1817. An explanation given in 1805, in a memorandum on the constitution of the Exchequer of Ireland,[28] was : " As the Revenue of Ireland is raised under different Laws and a considerable

[27] *P. I. and E. Accounts* (Chisholm), Part I.
[28] *B.M. Addl. MSS.* No. 31237, f. 71.

proportion of it applied to local purposes and as by the Articles of the Union it must probably be long kept distinct from that of Great Britain, it may be convenient and prove most satisfactory to that part of the United Kingdom, to continue the administration of the Revenue under a Board resident in Ireland." In 1813 the Fees Commissioners[29] recommended the consolidation of the Treasury Boards as a measure of economy in public administration, without delaying until the debts and revenues should be amalgamated. Changes in the procedure of management of public finance are always slowly made and never before their time. An instance has already been noticed in the case of the ancient Exchequer Court of Receipt. Although the debts and revenues were unified in 1817, the separate Irish Boards of Customs and Excise remained until 1823; the Irish Board of Stamps was not abolished until 1827; and a distinct Board for auditing the Irish accounts remained in existence until 1832. The work of financial fusion proceeded slowly and cautiously. The change made by the Act of 1816 (56 Geo. III, c. 98) resulted in the abolition only of the Irish Treasury Board and the Commissioners for the Reduction of the National Debt.

Between 1801 and 1816 certain measures were taken to improve the financial administration in Ireland. Apart from statutes, the Commissioners appointed to report on the collection, receipt, issuing and accounting of revenue in Ireland made fourteen valuable reports covering all branches of Irish public finance.

They exposed the illegality and irregularity of fees charged by the customs officers which amounted to over 5 per cent. of the yield of the customs. They recommended the abolition of useless offices and sinecures to which the attached emoluments amounted to £23,500 per annum. The customer, comptroller, searcher and surveyor-general were included in these useless offices. The collector's office was a sinecure and the emoluments so great that, in the view of the Commissioners, the type of person holding the appointment could not be expected

[29] *P.P.*, 102 of 1814.

to " submit to such constant labour, application and confinement, as the duties of the office absolutely require ".[30] The First Commissioner of Customs and Excise defended the fee system on the ground that it benefited the public by preventing " the delays attendant upon the mere cold performance of duty "; but the Commissioner admitted that he " has always had great respect for old establishments; . . . he cannot discover any just cause for overturning the system under which the Revenues of this country have been so long collected ".[31]

Holidays were given in the Customs Department for King Charles I's martyrdom, St. Paul's Conversion, the Battles of Culloden, Boyne and Aughrim, the Restoration of Charles II, the Accession of the Hanover family, the Rebellion of 1641, King William III's birthday, and the Gunpowder Plot, as well as for half a dozen saints, besides Saint Patrick.

In their report on the collection of the Hearth Tax, they showed that since 1787 the collectors were given, in addition to their salaries, a commission of 20 per cent. of any surplus over the maximum in the three years preceding the officer's appointment. The result was that in places like Dublin where new houses were being built this commission was considerable. These officers were also paid $2\frac{1}{2}$ per cent. of the produce of the Window Duty.

In the excise, abuses were frequent as a result of the dishonesty of the officials. " The amount of the Fees that appears to have been paid by Maltsters is so little to be accounted for upon any of the reasons urged to us by the Officers receiving them, that we know not how to divest ourselves of the impression, that, although not directly taken as the price of connivance and corruption, to their influence must in great measure be attributed that dereliction of duty which so generally prevails ".[32]

[30] *P.P.*, 6 of 1806, p. 56.

[31] *P.P.*, 6 of 1806, pp. 100-101.

[32] 6th Report *P.P.*, 4 of 1808, p. 17.

Besides, there were gaugers stationed at places where no excise was collected; and the Commissioners thought that surprise visits to these spots would afford an equivalent protection to the excise revenue. Ireland was divided, for excise purposes, into 541 Walks, 127 Surveys, and 33 Districts. In each district there was a collector; in each survey, a surveyor; and at least one gauger in each walk.[33]

As a result of these reports, the civil administration was tightened and made more efficient; and the more obvious abuses were remedied. The cost of collection was excessive. This had been a constant subject of complaint in the Irish parliament. It will be recollected that Grattan, in his speech acknowledging the Royal Message in 1782, placed the cost of revenue collection foremost amongst the abuses to which the immediate attention of parliament should be given. At 1800 the cost of collection of customs and excise had been reduced to between 8 and 9 per cent. of the yield. It may then come as a surprise to learn that ten years later the cost was 13 per cent. for the customs and 17 per cent. for the excise (including the assessed taxes) or about 14½ per cent. for both combined. The excise revenue had barely increased, although the duties were considerably heavier. Illicit distillation had become common on account of the heavy excise-tax. The yield remaining about the same, the cost of collection and of policing had increased. In addition, the establishments were weighted with heavy compensation annuities and pensions. Wakefield was surprised at the manner in which, after the union, the higher civil servants were accustomed to regard their offices. "A man is introduced into office, it matters not how, whether by interest or by merit." Then, "As the performance of duty requires labour, and, as a man cannot enjoy pleasure and perform labour at the same time, his next object of pursuit commonly is, after having attained this office, to get decently out of it without losing the emoluments.

[33] In 1816 there were 134 Surveyors of Excise and 689 Gaugers on the Establishment. (*P. P.* 231 of 1816.)

"Common sense, in such cases, would dictate, were it only consulted, that when official duty ended official salary should cease. This logic, however, although plain and intelligible, is not understood in Ireland. To go out of office without a compensation, in other words, without the salary for life, would be considered as unprecedented. Such is the common practice of persons who hold government places in that country. It came into use for the purpose of procuring sanction to the measure of the union in both Houses of parliament, and it is now considered as a matter of right".[34] A third cause of the increased cost of revenue management was the disfavour shown after 1806 by the Revenue Commissioners to the charge of extra-legal fees by the Revenue Officers. The Fee Commission in their First Report,[35] which dealt with the customs, had recommended the abolition of fees and an increase in the official emoluments of the collecting officers; and an attempt was made gradually to reform the services of customs and excise so that the entire cost of collection should be disclosed in the official accounts. One may say that the 1800 and 1810 figures are not strictly comparable, on this account; but it is unnecessary to add that the fees did not all at once disappear.

The organisation of the Court of Exchequer in Ireland was not affected in the decade which followed the merger of the Irish parliament. In the Superior Exchequer, on the revenue side, the Lord High Treasurer had given way, in 1793, to the Commissioners of the Treasury of Ireland; and in 1817 the office and responsibility was vested in the Lords Commissioners of the Treasury of the United Kingdom of Great Britain and Ireland. The Vice-Treasurership was revived in 1817; but the duties of the new post were not similar to those of the Vice-Treasurers before 1793. The new Vice-Treasurer might be described as a parliamentary secretary, for Irish affairs, to the Chancellor of the Exchequer; that is to say, he sat in parliament to deal with

[34] Wakefield. *An Account of Ireland, Statistical and Political*, II, 357.
[35] *P.P.*, 6 of 1806.

matters relating to Irish finance. His deputy at Dublin was responsible for maintaining treasury control in revenue matters in Ireland, and for superintending the operations in the Court of Exchequer of the Teller, the Clerk of the Pells and the Auditor-General.

Since the Union, the authority for issues from the Irish Exchequer was a King's Letter, countersigned by three Lords of the British Treasury. Two King's Letters were issued each year after the passing of the Appropriation Act, one for the Civil List, and one for the Military List. These were sent, when countersigned, to the Lord Lieutenant, authorising him to order the issue of the aggregate of the sums granted and appropriated for the particular services named in the Appropriation Act. The documents, and a warrant from the Lord Lieutenant, were sent to the Irish Treasury Commissioners (after 1817 to the Vice-Treasurer's Office at Dublin). Issues from the Exchequer were ordered by the Treasury in two ways. Before the passing of the Appropriation Act and the receipt of the necessary authority from the Lord Lieutenant, the Treasury issued warrants to the Auditor-General of the Exchequer to the requisition of the department or individual entitled to public moneys. The Treasury issued its warrant in advance of authority on the assumption that parliament would provide the funds, or with the knowledge that the funds had been provided by parliament and that the formal authority would in due course be received. When the Lord Lieutenant's warrant and the King's Letters authorising the expenses of the year had been received, warrants were issued to the Auditor-General for each item of expenditure, to remain dormant (hence they were called Dormant Warrants) until an application should be made for the moneys.

In the Court of Exchequer, the Auditor-General was responsible for recording all charges by law on the Irish Exchequer, King's grants, the details of the Establishments, and assignments and transfers of government annuities and pensions. It was his duty, on receipt of

a warrant from the treasury or of an application for money, to ensure that the issue was authorised by law and that the amount did not exceed the fund upon which it was chargeable. This he could do from the records in his official keeping. The Auditor-General then issued his warrant to the Teller. The Teller prepared a draft on the Bank of Ireland and sent this, together with the Auditor-General's warrant, to the Clerk of the Pells to enable him to make a record of the issue. The documents were then returned to the Teller, who issued the draft to the payee. The Teller could not draw on the Bank of Ireland without a warrant from the Auditor-General. The Auditor-General could issue a warrant only on the written order of the Treasury Commissioners; and a record of each payment was kept by the Treasury, the Auditor-General, the Clerk of the Pells and the Teller.

Since 1783, all public receipts ought, according to the direction of the House of Commons and the orders of government, to have been lodged without delay in the Bank of Ireland; but the Teller continued to receive the produce of the Casual Revenue from the Sheriffs; and the poundage and pells fees, which he lodged in the Bank only at the end of each quarter; and repayments made by sub-accountants and local army paymasters. On November 13th, 1804, an Irish Treasury Order was issued requiring the Teller from 5th January, 1805, to lodge in the Bank of Ireland all sums of money received by him, on the date of receipt or, at latest, on the following day; but it was not until 1813, after the Fourteenth Report of the Commissioners on Fees, etc., had been made, that the Treasury insisted on compliance with this order.

The Receiver-General of Customs and Excise and the Receiver-General of Stamps made daily lodgments in the Bank of Ireland to the account of the Teller of the Exchequer. Every Saturday, the Receiver-General gave an account of his lodgments, together with the Bank receipts, to the Exchequer; and the amounts were recorded by the Teller, the Clerk of the Pells, and the

Auditor-General. Receipts could not be issued by the Receiver-General until this weekly account had been examined, and acquittances prepared in the Exchequer, countersigned by the Clerk of the Pells and the Auditor-General. The Bank of Ireland sent a weekly account to the Pells Office, and it was the duty of the Clerk of the Pells to compare this with the Teller's accounts and call him to account for any discrepancies. The principal duty of the Clerk of the Pells was to act as a check on the Teller. This was also one of the duties of the Auditor-General.

In addition to the weekly check, the Teller's accounts were made up quarterly and transmitted to the Chief Secretary to the Lord Lieutenant. The Auditor-General engrossed the quarterly account on parchment. and certified it to the Treasury. It was passed and signed by the Treasury Commissioners and remained in the Treasury as the Teller's discharge.

It will be remarked that there was no lack of checking. Unfortunately for the success of this mechanism, the main check—the Pells—was useless, because the Clerk of the Pells did not attend at his office, and his Assistant, who did his work, was, according to an old and happy tradition, assistant clerk to the Deputy Teller. The check was exercised by a clerk of the person checked! Another unfortunate slip in the arrangement was that the accounts were signed and filed in the Treasury without examination. The Treasury did not know, for example, that the Deputy Teller had the use of about £200,000 on average of the public moneys, when this fact was brought to light in 1813.[36] On 28th September, 1813, they censured the Teller for this.

By 54 Geo. III, c. 83, the Irish " Treasury Act ", 35 Geo. 3, c. 28, was amended in order, it seems, to cloak the criminal carelessness of the Treasury Board. It enacted that from August 1st, 1814, no payments should be made into the hands of the Teller or at the counter of the Exchequer; but all payments should be made into

[36] *P.P.*, 102 of 1814, pp. 28-29.

the Bank of Ireland to the credit of the Teller. The bank's receipts were then, as before, to be exchanged for Exchequer acquittances, given by the Teller and countersigned by the Clerk of the Pells and the Auditor-General. No money was to be paid out by the Teller except by draft on the Bank of Ireland, countersigned by the Clerk of the Pells. The penalty prescribed by the act for a misapplication of public moneys was a fine equal to twice the sum misappropriated, and the full costs of the suit, and interest at 12 per cent. per annum, and imprisonment without bail until the fine and interest should be paid (sec. 6). Pells and Poundage—the antient fees of the Exchequer—were in future to be left in the Bank of Ireland and credited to the Teller's official account. These fees were really a tax on public creditors. The Act also declared that it was not lawful for one person to hold more than one of the following offices, viz., any office in the Treasury, Auditor-General's Office, Pells Office, and Teller's Office. All of these requirements could have been provided for by Treasury regulation.

The Treasury, which the Irish parliament had intended to be the great controlling power in the financial administration, had never risen to its responsibilities. The Treasury Commissioners were, to use the proper parliamentary word, " inefficient "; that is to say, they were inactive. As the watch-dog on the Exchequer Officers, they failed, because with all the duplication of accounts and the sieve-like superintendence of issues from the Exchequer, they did not make any use of the returns, satisfied so long as they were received. One can imagine the Treasury pressing to have the returns in by a certain date—so that they could be " filed." The modern Treasury has not lost all its traditions. As the watch-dog on the state departments other than the Exchequer, they seem to have allowed the executive, always a gobbler in Irish affairs, to take into its hands even the slenderest threads of departmental guidance. The business conducted at the Treasury consisted of :—

(*a*) abating duties legally chargeable against traders, in special cases;

(*b*) reducing fines for offences against the revenue;

(*c*) making rewards for services in executing the revenue laws and regulations;

(*d*) making decisions on the building of revenue buildings;

(*e*) occasionally prescribing regulations for the better collection of the revenue.[37]

In 1813 the Commissioners on Fees, etc., reported that "the duties of the Lords of the Treasury seem practically to be reduced to the merely affixing their signatures to instruments or documents which without them could not be valid."[38] The estimates for the expenses of public departments were not submitted to the Treasury before being laid before parliament.

The Commissioners of Imprest Accounts who had done useful work in auditing the accounts of parliamentary grants since 1783 (23 and 24 Geo. 3, c. 26 Irish) were abolished on 4 July, 1812 (52 Geo. 3, c. 52), and five Commissioners for auditing the Public Accounts in Ireland were appointed by Letters Patent under the Great Seal of Ireland. Their duties were confined by the statute to the audit of accounts of parliamentary grants (for public works, Inland Navigation, Charities, Linen Trustees, etc.); but the Lord Lieutenant was empowered (sec. 18) to order any other accounts to be submitted for examination to the new Board, with the exception of the Military Accounts (sec. 19). The Commissioners were required to make a report of their audit to the Lord Lieutenant, each house of parliament, and the Irish Treasury.

In the same year, a new arrangement was made regarding the accountancy of the military expenditure. By 52 Geo. 3 c. 51, three Commissioners of Military

[37] Fourteenth Report of the Commissioners appointed to Enquire into the Fees, etc. *P.P.* No. 102 of 1814, pp. 35-37.

[38] *P.P.* 102 of 1814, p. 36.

Accounts in Ireland were appointed, to examine all army, barrack, commissariat and other military accounts with the exception of the ordnance accounts,[39] and to report to the Lord Lieutenant and to both houses of parliament. The Examinator and Comptroller of Military Accounts, appointed under 38 Geo. 3, c. 56 (Irish) was replaced by this Board. One notices that while the Irish Act of 1798 required the accounts to be laid before the Treasury, the British Act of 1812 omitted this provision.

When the Treasury Boards were amalgamated, and the national debt of the United Kingdom was created, and revenues and expenditure were credited and debited in the accounts of the United Kingdom of Great Britain and Ireland, the Vice-Treasurer, appointed by 56 Geo. 3, c. 98, took the place of the Irish Treasury, acting—through his deputy—under instructions from the Treasury Board of Great Britain and Ireland which was increased by two Lords Commissioners to enable it to cope with the extra work arising from the amalgamation. The Treasury Commissioners were empowered by the act to transfer quarterly surpluses from the British Exchequer to the Irish Exchequer or vice versa "as the Exigencies of the Public Service of the United Kingdom may appear to them to require". From 5th January, 1817, the Treasury (of Great Britain and Ireland) was required to lay before parliament annual accounts of the heads of revenue receipts in Great Britain and Ireland respectively and of expenditure, and accounts of exports and imports of the United Kingdom (sec. 22).

Irish financial administration was not improved by the Union. The Irish parliament, with its gradually increasing powers, had, despite many limitations, worked consistently towards economy through its Special Committees, and especially its Committees of Public Accounts. The Irish parliament understood what it was doing, even when it was doing wrong. The United Kingdom parliament was capable of doing wrong to

[39] The Irish Ordnance Department was a branch of the Ordnance Office in England and was outside the control of the Lord Lieutenant or Irish Treasury Board.

Ireland in the belief that it was being good and generous. A typical example of the reaction of this on the public accounts is disclosed in the First Report (1817) of the Select Committee on Finance.[40] By a clause in Article 7 of the Act of Union, the Parliament of the United Kingdom was obliged to provide that " a sum not less than the sum which has been granted by the Parliament of Ireland on the average of six years immediately preceding the first day of January, 1800, in Premiums for the internal encouragement of Agriculture and Manufactures, or for the maintaining Institutions for pious and charitable purposes, shall be applied, for the period of twenty years after the Union, to such local purposes in Ireland, in such manner as the Parliament of the United Kingdom shall direct." The Commissioners took joy in showing that the liberality of Parliament had outstepped the rigid limitations of the act; and although they were doubtful of many of the charitable institutions, yet they would not suggest any reduction in the grants made to them, " understanding that the people of Ireland have been accustomed to look upon them, not only as affording a valuable relief to many cases of great distress, but as proving the liberal disposition of Parliament towards that part of the United Kingdom ". One of these institutions was the Charter Schools. Another was the Foundling Hospital. Of the former Wakefield remarked: " It is a circumstance little known in England, and deserves to be particularly mentioned, that few Catholics pass by these schools without looking at them with a jealous eye, and vent their feelings by curses and execrations, with gestures and emphasis which bespeak their heart-felt anguish ",[41] while the Board of Education reported that " the institution appears to have fallen short of attaining the purposes for which it was established and expected from it, the conversion of the lower orders of the inhabitants of Ireland, from the errors of popery ". The Foundling Hospital was a charnel-house of unwanted infants. Another charity was the Society for discountenancing Vice. The Irish Parliament voted only one sum of £300 to this society, the United Kingdom Parliament voted £8,410 in the single year 1816/17. The Commissioners were probably told that the Irish people looked upon these institutions as affording valuable relief, and the grants as proof of the liberal disposition of Parliament towards poor Ireland; and believed this; but the people who told them knew better; and if the Irish parliament had given the grants at 1816 and been sanctimonious about it, its members and the electors and those who had no vote would have been fully aware that the parliament had its tongue in its cheek, and the Committees of Public Accounts would, sometime or other, have shown up the sham. It was nobody's business, after 1800, to explain matters to the parliament at Westminster. The word of an English writer like Wakefield would be weak against the solemn utterance of the Governors of the Foundling Hospital, despite the report of the Board of Education: " We are informed that (except when offices of emolument were to be disposed of) it was difficult, out of a board consisting of nearly two hundred governors, to procure the attendance of five once a quarter, to transact the ordinary business of the establishment ". The two hundred governors would have tumbled together if there was question of reducing their grant and the British sense of generosity towards Ireland, with its basis of superiority, would instantly have been aroused. The trouble about Irish finance at 1817 was that the government in Ireland had been too generous at 1800; and the Act of Union was passed by a purchased Irish parliament. Only an Irish angel, or an anti-Irish human, can survey the end of the financial labours of the Irish Parliament without some little irritation.

[40] *P.P.* 366 of 1817.

[41] Vol. II, p. 411. *Account of Ireland.*

CHAPTER XIII

A Lost Century

Until the year 1782, Ireland was in the position of having its own government separate from that of Great Britain; but both in legislation and in administration it was dependent upon the British ministry. Ireland was a conquered colony which had retained, as some British colonies do to-day, a separate legislative body and a separate executive. There was not much point in having a separate Irish legislature, as Cromwell perceived; nor in retaining a separate executive. The probable causes of this distinctive treatment of Ireland, as compared with that of Scotland, were primarily the existence of a large number of Irish inhabitants who never became willing partners in the Irish state mainly because they were prevented from so becoming; and secondly, the Irish Sea, which in earlier centuries, was a much more troublesome barrier between England and Ireland than it is to-day. It is idle to speculate on what would have happened if there had been no separate Irish executive or legislature. It is probable that, as Molyneux saw, complete amalgamation in the 17th century would have saved the ordinary citizen many a burden, many an injustice and many a crime. The interest of the Irish government and its adherents was more often than not opposed to that of the common people.

From 1782 Ireland ceased to be quite so dependent. In legislation the Irish Parliament was theoretically untrammelled, but this theoretical strength was sapped by the bribing policy of the Irish executive. The Irish executive was still subordinate to the British executive. Professor Dicey, arguing in 1886 against the grant to Ireland of a constitution similar to that of a British

colony such as Victoria, described the Colonial Laws Act, 1865 (28 & 29 Vict. cap. 63) as "the charter of Colonial legislative authority."[1] The Irish Constitution of 1782, he says, "presented in its principles the exact antithesis to the modern Constitution of Victoria."[2] The antithesis rested on the acceptance by Victoria and the refusal by Ireland of an Imperial parliamentary sovereignty. "There is no Body of Men competent to make laws to bind this Nation, except the King, Lords and Commons of Ireland, nor any other parliament which hath any Authority or Power of any Sort Whatsoever, in this Country save only the Parliament of *Ireland*." This was Grattan's statement in the Irish House of Commons on April the 17th, 1782; and it was then accepted, as the theory of the constitution of Ireland, by the government of Great Britain. Like many a constitutional theory, accepted for a dominion, it was haltingly and trepidly applied. "It is undoubtedly true," wrote Dicey, "that from 1782 to 1800 the British Parliament had no more right to legislate for Ireland than at the present day it has to legislate for New York, and no appeal lay from any Irish Court to any English tribunal."[3] This was the theory of Irish constitutional status at that period. In practice, as has been shown, there was dependence on the British government through the Irish executive. "The Irish Executive was controlled by George the Third and his English Ministers, and the passing of the Act of Union was proof, if evidence were needed that England possessed potent though unavowed means for controlling the decision of the Irish Legislature."[4] This potent and indeed scarcely hidden means was bribery.

After 1782, Ireland was not, *de facto,* much more than a crown colony.

Of infinitely more importance to a consideration of the future evolution of the Irish constitution, is the

[1] *England's Case against Home Rule.* A. V. Dicey, 1886, p. 202.
[2] Ibid., p. 221.
[3] Ibid., p. 222.
[4] Ibid., p. 222.

political tendency between 1782 and 1801, which was by no means in coincidence with the *de facto* position; and the political development of Great Britain in the 19th century.

Ireland was regarded by Irish politicians as a separate kingdom united to the kingdom of Great Britain by common sovereignty. This view was not disputed by British politicians. It matters little that Ireland lacked many of the attributes of sovereign statehood; that through her executive she was subordinate to the British state; that she was unknown as a distinct state in international law. Such a period of transition as that which began in 1782 and abruptly came to an end in 1801 is necessarily hazy in its contradictions; as hazy, let us say, as the position of member-states of the British Commonwealth of Nations in 1925. The point to grasp is that these transition periods contain all the germ of future development. They disclose what is growing and to what evolution the growth is moving. The bribery of the eighteenth century would not have been tolerated in the century following. Corruption prevailed in 1800, but it does not prevail for ever. What, then, would have been the evolution of the constitution of Ireland if the parliaments of Ireland and of Great Britain had not been abolished in 1801?

In an earlier chapter reference is made to the Irish Parliament as a strong imperial influence in Ireland. Loyalty to the English connection cannot be denied to the parliament of Ireland. Its loyalty was based on proprietorship of estates, on tradition, and on the ascendency of a minority. Just as this loyalty was less narrow in the last quarter of the eighteenth century than it had been at any earlier period, so it may be assumed that it would have broadened in vision in later years. The Irish Catholics would have been admitted, almost certainly before 1829, to those privileges of citizenship termed, in this connection, " emancipation ". If the loyalty of the politicians of Ireland was based on nothing more than ascendency, and a new class of Catholic traders should by degrees enter parliament,

might not one suggest the probability of a weakening, not too late in the first half of the nineteenth century, of loyalty to the British connection? The loyalty was held together, too, by a common education, and a common language, and a common—what shall I call it?—society ideal. Admission to what was available to the planter descendants would undoubtedly have been regarded as a proud privilege by the emancipated descendants of natives. The emancipated untouchables would have been thankfully loyal.

It would be wrong, however, to compare this kind of loyalty with the loyalty of the landowners of Ireland in the 19th century. Given a chance to progress from the germ of 1782-1800, the parliament and the executive of Ireland could hardly have remained stagnant. What Ireland lacked in the post-Union period, state-consciousness, would have been hers. That would have brought with it national responsibility; and with that should have developed a normal kind of patriotism which would attract normal men without causing them to be shunned as political lepers.

Pitt failed because of his lack of faith. If he had had a strong belief in the parliamentary institution, or any faith in the public spirit of Irish politicians, he might have planned differently. Anson, reasoning like Pitt, wrote : " If the Irish Parliament had been really representative, and had insisted upon the responsibility of the executive, the situation might easily have become impossible, because it would be difficult to suppose that the balance of parties and the currents of political opinion would have worked in correspondence in the two countries ".[5] Unity would have been jeopardised; therefore ensure unity by union. The British Government decided in 1782 that the only safe policy for Ireland during the eighteen years of her parliamentary independence was one of corruption. The alternative policy would have credited Ireland with some amount of public honour and public spirit and allowed her to develop her

[5] *Law and Custom of the Constitution.* Anson, Vol. II, Part II, 3rd edn., 1908, p. 7.

institutions of government freely. To what would that development have led? Anson has suggested an answer, which surely means " Ireland is not to be trusted "—that strange national policy of a country which has always translated the belief into action, and never once in the history of the political relations between the two countries thrown a crumb of bread on the waters of Irish trust. There is another answer besides Anson's. There are, of course, people who, when they consider the alternative, will still say, better the Union and 1916; but they are an insignificant minority. It is worth while imagining, on the basis of the history of Irish parliamentary development to 1800, the probable course of the Irish political movement after 1800, given the continuance of the Irish Parliament.

It is undeniable that a parliament which possessed so much vitality as the Parliament of Ireland, would have, in the 19th century, obtained the power of dismissing the executive and holding it dependent for existence on the support of a majority in parliament. In Canada, as a natural result of the struggle for independence of external control, what is called responsible government, the power of the people governed to appoint not only the legislature, but through the elected representatives the executive also, was won in 1847, after a short-lived rebellion. For Ireland that would have been the fruitful result of over a hundred years of straightforward constitutional activity, a logical and natural development. Ireland, not Canada, would have been first in obtaining responsible government; whether Ireland could have stopped at Dominion status is another question. Two arguments suggest strongly that she would.

The first is the absence of the causes which in the 19th and 20th centuries led to revolutionary activities. The economic debasement of the mid-19th century could not have occurred in any self-governing country not overrun by hostile forces. It is unreasonable to suppose that it could have happened in a self-governing Ireland. With, then, a population retained at a six-million figure, a parliament necessarily immersed in economic

problems, a strong aristocratic element, and a conservative church, one may conclude that the seed of agitation would have fallen on rocky soil. The struggle for security of the farms being eliminated, as it must have been in a country governed by a native parliament, one of the main causes of unrest and disturbance in Ireland in the 19th century is removed from calculation. It is not easy, of course, knowing the history of Ireland from 1800 to 1920, to imagine radical differences if the Irish Parliament had remained in existence. It is, however, not necessary to be imaginative. If the lessons of Irish parliamentary history from Wentworth to Castlereagh are accepted, any theory other than one of continual constitutional progress requires the disclosure of an extraordinarily hidden explanation.

The second reason is also implicit in the history of the Irish Parliament. It is the stabilising result of even a moderately free constitution. It is not natural to any body of men to rebel against a form of government. The cause of rebellion lies always in the form of government. Of all forms, the Anglo-Norman has proved to be the most productive of steadiness and stability and elasticity. In Ireland all classes of people had grown to be accustomed to parliamentary government by the 18th century. Given elasticity and time, the result would have been, at any rate, a peaceful development. Given a strong desire on the part of the British Government for a particular form of shell, within which the Irish State could have developed freely, it is difficult to see how the shell would ever have been broken or even thought of by Irish people as unsuitable. By breaking the Irish Parliament, Pitt destroyed the strongest Imperial influence in Ireland. That did not seem obvious in his time, because it appeared a certainty that the extension of complete British control over Ireland would provide a final safeguard for Imperial unity so far as Ireland was concerned. The other policy appeared, perhaps, a gamble. Pitt thought for the present, as all politicians do, and his policy would have been good if Ireland were static. The very same mis-

take was made by British politicians in 1920. Then it seemed good to break the unity of the country in order to plant complete British sovereignty in one part of Ireland. Again, if the country were a cesspool this policy would be excellent. Because the country is not a cesspool the policy was far more shortsighted and more contrary to British interests than Pitt's Union. That is why it is unlikely that any such long period as a century and a quarter will need to dynamite itself in Ireland—for Ireland is dynamic and not static—before the position is altered.

Ireland had reached the position in the 18th century of not being committed to British foreign policy. Ireland could remain unaffected by a British war because the Irish Parliament could decline to help Great Britain with men or money. It may be stated, in the words of the Report of the Inter-Imperial Relations Committee of the Imperial Conference, 1926 (section V, c.), that neither Great Britain nor Ireland "could be committed to the acceptance of active obligations, except with the definite assent of their own Government" with this reservation, that so long as the Irish Government was able to govern without a parliament, the definite assent was a fiction. Though the theory of the Irish constitution lagged behind the political facts, this was the accepted position; and a united Ireland, one hundred and forty-four years before 1926, had that freedom which the Imperial Conference declared in so many words to be an attribute of Dominion status, 1926-brand. Since Dominion status is a least common multiple, continually under a strong pull towards a greatest common measure, it is difficult to imagine a retrogression in Irish constitutional development from this position.

William Molyneux, writing in 1698, stated that "whoever is King of England, is *ipso facto* King of Ireland, and the Subjects of Ireland are oblig'd to Obey him as their Liege Lord." It was by a statute of the Irish parliament (33 Henry VIII, c. 1) that Henry VIII was made King of Ireland. Before that act, the kings of

England were lords of Ireland. Between that act and Grattan's time, nothing happened to throw light on the kingship of Ireland, but there was at all times the tradition, based on Irish statute law, that the king of England was *ipso facto* king of Ireland. Theoretically the parliament could abrogate that act and change the kingship. The Irish parliament never wanted to do that. A constitutional right is one thing; a desire to use a constitutional right is another. In the last years of the Irish parliament this distinction had some light thrown upon it. In 1789, George III became insane, and in the Irish parliament a motion was carried for offering to the Prince of Wales the Regency of Ireland. Similar action was not taken in the British parliament. Alarm felt in political circles in England over the action of the Irish parliament was relieved by the sudden recovery to sanity of the King; and the prince had merely to express graciously to the Irish representatives his thanks for their offer. Nobody disputed the power of the Irish Parliament to take the action it did. There was no positive legislation of an external Government, such as that of Great Britain, conferring upon Ireland her constitution. A free constitution had always been held to be hers, and invasions of that constitution by British legislation were negatived by the legislation of 1782 and 1783 in the British parliament. It follows that, if the Irish Parliament had remained in existence since 1800, the constitutional rights of state-headship would have remained with it, and it could have chosen the head of the state without any compulsion from outside. In this respect the Irish constitution of 1782-1800 was more advanced and free than the constitution of any dominion is generally recognised to be at the present time. The difference is due to the source from which the constitution derives its authority. The constitution of Ireland in the 18th century was an internal growth, not something conceded from outside. The Irish Constitution was relieved, so to speak, from the annoyance of external intrusion by the negative legislation passed by the British parliament.

It is because of this wonderfully strong position achieved by an unrepresentative parliament in the 18th century after an amazing constitutional struggle uninterruptedly carried on for over one hundred years, whenever the Parliament sat, that many Irishmen find it difficult nowadays to hear young British dominions spoken of as senior. These striplings would be regarded, could they be carried back in their present status to 1782, as juniors by Henry Grattan and John Forbes. The continuity of Irish parliamentary history was broken by the Acts of Union. There followed for Ireland a century of economic rot, of ill-government and misdirected effort. It is easy for the Englishman in the street to be sceptical of the Irish complaint that England was responsible; but it is difficult for the student of history to avoid drawing a startling comparison between the period of an admittedly muddled constitutional government in the 18th century and that of the union government in the 19th and early twentieth. However one may read the signs, the law of parliament emerges with an honour. As an individual one may be prejudiced against this institution which enables so many idle words to be spoken; as an unbiassed seeker after truth one is bound to admit that the institution is a great popular safeguard, which in Ireland, despite the divided loyalties which have always forced themselves between the inhabitants, may yet be endowed with tradition and continued with hope. "By the Law of Parliament, I mean the Law whereby all Laws receive their Sanction, the Free Debates and Consent of the People, by Themselves, or their Chosen Representatives."[6]

[6] Molyneux. *The Case of Ireland, etc.*, 1st edition, p. 56.

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